Introduction

A juvenile justice system must ensure that children and adolescents enjoy all the same rights that other human beings enjoy; but, it must also provide them with the special protections that their age and stage of development necessitate, in keeping with the main objectives of the juvenile justice system, namely, the rehabilitation of children and adolescents, their comprehensive development and their reincorporation into society to enable them to play a constructive role within it. ¹

However, of late, the shortcomings in the juvenile justice systems of certain nations are triggering recidivism and violent streaks of behaviour in young criminal offenders rather than creating an atmosphere of rehabilitation; making an approach to strengthen and improve the institutions, laws, policies, programs and practices in the area of juvenile justice absolutely necessary. Not all countries have harmonized their domestic legislation in accordance with the principles put forward in the Convention on the Rights of the Child (CRC), and the countries that have done so face difficulties in the application of these principles.

Lack of specialization, absence of political will to effectively implement the juvenile justice systems in accordance with the international corpus juris, discrimination and other such issues have led to several human rights violations in the field of juvenile justice. In States such as Antigua, Barbuda and Jamaica, children may be tried in an adult court if charged along with an adult. In certain States, judges have the discretionary authority to determine whether a child should be transferred to an adult court. For example, in Suriname, this can be done in the case of children aged between 16 and 18. These practices are extremely disturbing. "Not only do they deny accused children the protection of a specialized juvenile court but, they also subject them to other grave consequences such as the possibility that they might be sentenced as an adult." ²


Children may thus be deprived of vital rights like the right to education, right to criminal laws appropriate for the age and development of a child, right to freedom from discrimination and the right to protection and special care. Certain weaknesses within the juvenile justice systems of nations need to be addressed making the matter a must on the mandate of the United Nations Human Rights Commission (UNHRC).

**Definition of Key Terms**

**Juvenile**

In the law, a juvenile is defined as a person who is not old enough to be held responsible for criminal acts. In most states and on the federal level, this age threshold is set at 18 years. In Wyoming a juvenile is a person under the age of 19. In some states a juvenile is a person under the age of 17, and in Connecticut, New York, and North Carolina, a juvenile is a person under the age of 16. These age definitions are significant because they determine whether a young person accused of criminal conduct will be charged with a crime in adult court or will be required to appear in juvenile court. ³

**Juvenile Delinquency**⁴

A violation of the law committed by a juvenile that is not punishable by death or life imprisonment. Originally the term 'juvenile delinquent' referred to any child found to be within the jurisdiction of a juvenile court. It included children accused of status offenses and children in need of state assistance. The term 'juvenile delinquent' was not intended to be derogatory: its literal meaning suggested a failure of parents and society to raise the child, not a failure of the child. ⁵

**Incarceration**⁶

The state of being confined in a prison. Police officers and other law enforcement officers are authorized by federal, state, and local lawmakers to arrest and confine persons suspected of crimes. The judicial

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system is authorized to confine persons convicted of crimes. This confinement, whether before or after a criminal conviction, is called incarceration. Juveniles and adults alike are subject to incarceration.  

7 Recidivism

Repeated or habitual relapse, as into crime. Recidivism is one of the most fundamental concepts in criminal justice. It refers to a person's relapse into criminal behavior, often after the person receives sanctions or undergoes intervention for a previous crime. Recidivism is measured by criminal acts that resulted in re-arrest, reconviction or return to prison with or without a new sentence during a three-year period following the prisoner's release.  

9 Juvenile Law

An area of the law that deals with the actions and well being of persons identified as juveniles.  

10 Background Information

The first juvenile court was established in Chicago in 1899. Until then, minors above seven years of age were brought to trial in a regular criminal court, although many countries have already operated designated prisons for juvenile offenders. Throughout the following 50 years, the courts have evolved to a significantly different form from the rest of the system. Most importantly was the multidimensional approach towards the child, tailoring rehabilitation programs which best fit his specific situation. In some cases, however, young offenders were tried in criminal courts, as some still happens today. However, this approach did not prove itself as an effective solution for the rising crime rates among youth. As a result, the contemporary juvenile justice system is similar in many ways to criminal courts.  

Juvenile delinquency is a grave threat to the current and future safety of society. Although the results of criminal offences are the same, some would argue that the problem is much more complicated and demands more consideration that adult criminals. That is, the nature and circumstances of juvenile delinquency raise into discussion several main inherent moral and ethical dilemmas:  


First, since children and adolescents are much more responsive to environmental pressure, one should carefully consider the motives of a young criminal. For example, a child who cannot afford a status symbol (e.g. fashion brands) would be prone to theft, as he perceives the product as a critical (i.e. a need rather than a want) social barrier. The same holds true for other types of criminal offence such as drug abuse and violence.

Second, minors are typically less experienced; therefore, their perception about good and bad differ from adults, and they are much more sensitive to manipulations.

Third, one must weigh the benefits of punishment and isolation of a criminal against the effects of imprisonment on a teenager, who would, most probably, integrate in a society with a developed criminal culture. It is thus a sound assumption that many of the young prisoners are growing up into a life of crime.

All these factors imply that the juvenile justice system should be coherently different from the adult criminal justice system.  

Certain factors in the juvenile justice systems of most nations require urgent addressing and these are:

**Lack of specialization in juvenile justice systems**

A number of Member States of the United Nations have established separate juvenile justice systems for children who are in conflict with the law. These established systems are not always specialized in practice. Moreover, the personnel staffing these systems do not always receive training in children’s growth and development, human child rights or the kind of training that would enable them to exercise their discretionary authority with respect to children in a manner consistent with all the principles of human rights. Juvenile justice systems must implement laws, procedures, authorities and institutions specifically designed for children and adolescents alleged to have violated criminal law. All those working within the juvenile justice system must have received special instruction in children’s rights and been trained to work with children. While the relationship between urbanization and crime is clearly complex, an increase in juvenile crime has been associated with the growth of large cities, particularly with rapid and unplanned growth. Specialized police units would therefore be indispensable for improving the prevention and control of juvenile crime and the handling of juvenile offenders.

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Transferring youth to the adult criminal justice system

Human rights principles directly contradict the practice occurring in some jurisdictions of transferring youth from the juvenile justice system to the adult criminal system. The Convention on the Rights of the Child considers all youth under age 18 to be children. According to the International Covenant on Civil and Political Rights (ICCPR), youth offenders should be separated from adults when incarcerated and receive treatment appropriate to their age, with a focus on rehabilitation. These provisions directly contradict the practice occurring in some United States of America (further referred to as U.S.) jurisdictions of transferring youth from the juvenile justice system to the adult criminal system.\footnote{Even though the U.S. ratified the ICCPR, it reserved the right, in exceptional circumstances, to transfer youth to the adult system. In fact, on any given day, approximately one out of 10 incarcerated youth are confined in adult facilities (A Series Of Policy Briefs Produced By:. Building Bridges to Benefit Youth (n.d.): n. pag. Web.).}

Minimum Age of Criminal Responsibility

The minimum age of criminal responsibility differs widely owing to history and culture. The modern approach would be to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for essentially anti-social behaviour. If the age of criminal responsibility is fixed too low or if there is no lower age limit at all, the notion of responsibility would become meaningless. In general, there is a close relationship between the notion of responsibility for delinquent or criminal behaviour and other social rights and responsibilities (such as marital status, civil majority, etc.).

Human rights violations

Physical and sexual abuse of children is rampant in several juvenile homes. The dreadful abuse of boys at the now-infamous juvenile home in Kottayam (India), has exposed how physical and sexual abuse continues to be rampant in government shelter homes in the nation.

In 2010, more than 9000 juveniles living in juvenile detention facilities were surveyed by the Justice Department of the U.S. More than 10 per cent of the respondents said that they had been sexually abused by staff and 92 per cent of them said the abuser was a female. The report gives some insight into how staff members victimize the youngsters under their care and supervision. Hundreds of teenagers are raped or sexually assaulted during their stays in the country's juvenile detention facilities, and
many of them are victimized repeatedly, according to a U.S. Department of Justice survey, conducted in the U.S. ¹⁴

**Major Countries and Organisations Involved**

**Children Rights Information Network (CRIN)**

CRIN is a global network that disseminates information about the Convention on the rights of the Child and child rights among non- governmental organizations (NGOs), United Nations agencies, inter-governmental organizations (IGOs), educational institutions and other child rights experts.

**Human Rights Watch: Children’s Rights Division**

The Children’s Rights Division examines children’s rights abuses in every part of the world; sends fact-finding missions to countries where abuses are alleged to be occurring; and presents reports to governments, international organizations, non- governmental organizations, policy makers, and the media.

**Amnesty International USA: Children’s Rights**

Guided by the framework of the CRC, Amnesty International is seeking to develop its work on children around three key themes: juvenile justice, children in armed conflict and children in the community and family. Amnesty International continues to remind nations of their obligations under human rights treaties to protect the rights of the child.

**The United Nations Office on Drugs and Crime (UNODC)**

The UNODC was established to assist the UN in better addressing a coordinated, comprehensive response to the interrelated issues of illicit trafficking in and abuse of drugs, crime prevention and criminal justice, international terrorism, and political corruption. These goals are pursued through three primary functions: research, guidance and support to governments in the adoption and implementation of various crime-, drug-, terrorism-, and corruption-related conventions, treaties and protocols, as well as technical/financial assistance to said governments to face their respective situations and challenges in these fields.

**The United Nations Children’s Fund (UNICEF)**

The UNICEF has published several reports on Juvenile Justice Systems in various nations and has published a manual for the measurement of juvenile justice indicators.

India

The rate of juvenile crime in India is high enough for it to be an area of importance in this issue. The Juvenile Justice Act, 2000 is the primary legal framework for juvenile justice in India. The Act provides for a special approach towards the prevention and treatment of juvenile delinquency and provides a framework for the protection, treatment and rehabilitation of children in the purview of the juvenile justice system. An amendment being considered in India: Juveniles who are found guilty of committing rape should be tried as adults. The amendment being considered if brought into effect would mean that 16 year olds could be brought out of the purview of the Juvenile Justice Act if guilty of having committed rape. Introduction of this amendment would have both positive and negative implications. While it is believed that the introduction of such a strict amendment would deter potential criminals, if enforced it could have a worse impact on the juvenile. Incarceration with adult prisoners would put a juvenile offender under bad influence and may actually do more harm than good. The offender would also be deprived of certain rights guaranteed to children in the CRC.

Russia

The juvenile justice system in both Soviet and post-Soviet Russia is not as well defined and distinct from the adult criminal justice system as it is in the United States; there is no separate juvenile or family court. The fundamentals of Russian legislation and criminal procedure that pertain to the handling of children and youth have not changed substantially in more than 30 years, apart from some administrative and procedural changes. The age of criminal responsibility in Russia is 16. For certain serious crimes, however, that age is reduced to 14. In discussing the outlook for juvenile justice in Russia, it is noted that because of the ongoing social and political upheavals in Russia, juvenile crime will continue to increase; and both the formal and informal social controls in the country have broken down. This will influence the future of juvenile justice in Russia. 15

Brazil

Amnesty International officials say problems are continuing in Sao Paulo, Brazil. In a recent report, the human-rights organization concluded that Sao Paulo officials were continuing to allow "torture, ill-treatment, and cruel, inhuman and degrading conditions" even as officials promote their plans to improve juvenile centres. Advocates of reform point to statistics that show juveniles in Brazil are more likely than their U.S. counterparts to be locked up on a first offense. Amnesty International reports that 60 per cent of children in juvenile centres in Brazil are first-time offenders and says fewer than 10 per cent have

committed major crimes such as homicide or rape. Still, some experts say the reforms are showing some progress. The now-shuttered Imigrantes youth detention centre is a symbol of the accumulated woes of Brazil’s juvenile justice system and has become the focal point of officials who say they are committed to cleaning up years of abuse. Sao Paulo officials are touting a plan they hope will become a model for reform in Latin America.

Costing $50 million, the plan aims to break huge centres such as Imigrantes into smaller units that would hold fewer children and provide a range of educational activities. A major goal is moving more boys out of the locked centres to semi-freedom, where they can spend more time at home.¹⁶

**Other Important Nations**

There is scope for improvement in the Juvenile Justice Systems of all nations. An international study of 15 countries (Australia, Austria, Belgium, Denmark, England and Wales, France, Germany, Hungary, Italy, Japan, The Netherlands, New Zealand, Russia, Sweden, and Switzerland) notes that all have special provisions for young criminals in their justice systems, although some (such as Denmark, Russia, and Sweden) have no special courts for juveniles.¹⁷

**Timeline of Events**

<table>
<thead>
<tr>
<th>DATE</th>
<th>DESCRIPTION OF EVENT</th>
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<tr>
<td>1985</td>
<td>The UN adopts the Standard Minimum Rules for the Administration of Juvenile Justice,</td>
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<tr>
<td></td>
<td>or Beijing Rules</td>
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<tr>
<td>20 November, 1989</td>
<td>The Convention on the Rights of the Child is signed</td>
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<tr>
<td>2 September, 1990</td>
<td>The Convention on the Rights of the Child comes into effect</td>
</tr>
<tr>
<td>30 December, 2000</td>
<td>The Juvenile Justice Act is enacted in India</td>
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Relevant UN Treaties and Other International Agreements

- Convention on the Rights of the Child (CRC): The CRC is a framework treaty that works by stimulating the development of laws and policies for the benefit of children. It points out a direction in which states are obliged to move, sets out guidelines or principles for states to follow and establishes mechanisms that will serve as catalysts to the evolutionary process.


- Resolution adopted without vote by the UNHRC on 29 September, 2011: A/HRC/18/L.9

A few other UN Resolutions on Juvenile Justice:


The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, often referred to as the Beijing Rules, is a resolution of the United Nations General Assembly regarding the treatment of juvenile prisoners and offenders in member nations.

- Resolution on Administration of Juvenile Justice (1997/30)

- A/HRC/RES/18/12: Human Rights Council Resolution on the administration of justice particular juvenile justice

Previous Attempts to solve the Issue

Delegates should ideally read resolutions that have been discussed on the issue of juvenile justice for better knowledge of solutions that have been proposed in the past and the problems that they

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An outline of the resolution


addressed.

A resolution adopted by the ECOSOC on Juvenile Justice in 1997 encouraged Member States to make use of the technical assistance offered through United Nations programmes, including in particular the United Nations Crime Prevention and Criminal Justice Programme, in order to strengthen national capacities and infrastructures in the field of juvenile justice, with a view to fully implementing the provisions of the Convention on the Rights of the Child relating to juvenile justice, as well as making effective use and application of the United Nations standards and norms in juvenile justice. Guidelines for action on children in the criminal justice system were set out. Plans for the implementation of the CRC, the pursuit of its goals and the use and application of international standards and norms in juvenile justice was also discussed in the resolution.

A resolution on the administration of justice and juvenile justice in particular was debated upon in the 18th session of the Human Rights Council. It stressed the importance of including rehabilitation and reintegration strategies for former child offenders in juvenile justice policies, in particular through education programmes, with a view to their assuming a constructive role in society. It also encouraged States not to set the minimum age of criminal responsibility at too low an age level, bearing in mind the emotional, mental and intellectual maturity of the child, and, in this respect, referred to the recommendation of the Committee of the Rights of the Child to increase their lower minimum age of criminal responsibility without exception to the age of 12 years as the absolute minimum age, and to continue to increase it to a higher age level. 21

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, often referred to as the Beijing Rules, is a resolution of the United Nations General Assembly regarding the treatment of juvenile prisoners and offenders in member nations.

The ICJJ 2014: International Conference on Juvenile Justice aimed to bring together leading academic scientists, researchers and research scholars to exchange and share their experiences and research results about all aspects of Juvenile Justice. It also provided the premier interdisciplinary and multidisciplinary forum for researchers, practitioners and educators to present and discuss the most recent innovations, trends, and concerns, practical challenges encountered and the solutions adopted in the field of Juvenile Justice. 22

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21 A/HRC/RES/18/12: Human Rights Council Resolution on the administration of justice particular juvenile justice

World Congress on Juvenile Justice: Legal instruments, norms and international standards exist. The Congress aims at promoting the implementation of these norms and standards through the exchange of experiences, innovations and best practices. The Congress invites State actors and civil society to take actions for improved cooperation between the relevant stakeholders in each country, as well as for regional and international cooperation.23

Possible solutions

The juvenile justice system remains hampered by limited resources and heavy caseloads and is often unable to provide full attention to every case. Many policymakers and jurisdictions, however, are attempting to strengthen the system in a variety of ways. A strengthened juvenile justice system must hold youth accountable for their behavior and at the same time provide appropriate rehabilitation services for youth—services that involve both social control and treatment.24

1. **Reduced reliance on incarceration** and strategies that congregate juvenile offenders together. Instead, there should be provision of a full continuum of research-based, effective juvenile diversion options in the community as alternatives to incarceration.25

2. **Focused juvenile justice responses** and interventions on individuals’ actual risk factors for criminal behavior and their need, rather than the traditional approach of focusing simply on the crime committed.

3. **Implementation of treatment practices** for incarcerated youth, making sure that all youth involved in the juvenile justice system have access to mental health and substance abuse treatment as needed, as well as to an appropriate public education. Counseling services should be made available to juvenile delinquents.

4. **Establishment of juvenile justice systems specialized in practice** with compulsory training for personnel to be staffing these systems in children’s growth and development, human child rights or the kind of training that would enable them to exercise their discretionary authority with respect to children in a manner consistent with all the principles of human rights. Professional

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education, in-service training, refresher courses and other appropriate modes of instruction should be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.\textsuperscript{26}

5. **Age of criminal responsibility:** In legal systems that recognize the age of criminal responsibility for juveniles, the minimum age must not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity. Transfer of juveniles to adult systems should be avoided as this may have a detrimental impact on the development of the individual. Efforts should therefore be made to agree on a reasonable lowest age limit that is applicable internationally.

6. The **first contact** of children and adolescents with the juvenile justice system is through the police, and is frequently a traumatic experience. The police often treat children and adolescents in a discriminatory manner and selectively arrest those that are poorest, belong to minorities, or those identified as belonging to certain groups because of their appearance. The police must also receive training with respect to this matter. Discrimination by personnel at the juvenile justice systems or by police should be dealt with severely by the authorities of the State.

7. **Contact with family and community:** It often happens that children and adolescents who commit or are accused of committing crimes are removed from any contact with family and community contacts, which are essential for the enjoyment of their rights and their development. Hence, as far as possible, juveniles should be permitted to maintain contact with family members.

8. **Discretionary authority:** Children should not be detained in prison facilities for adults based on the discretion of any person as this may have a lasting effect on them and may lead to recidivism. Detention or incarceration should be the last resort.

**Bibliography**

Works Cited


Appendix

Some important links and information: http://www.unicef.org/ceecis/protection_7704.html

1. A comparison of the juvenile justice systems of several countries: http://jjcompare.org


