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**INTERNATIONAL FRAMEWORK FOR THE JUVENILE JUSTICE
AND HUMAN RIGHTS**

- Akshita Singh¹ & Shivam Kumar Gupta²

Abstract

The goal and primary concern of national and international organisations should be guaranteeing a secure and compassionate juvenile justice system for this young and minor population. The juvenile justice system requires rights in the areas of legal representation, a fair trial, the right to be heard, and access to healthcare, education, and rehabilitation, among other rights. On the other hand, Human rights are the essential, inalienable rights that every person possesses and are safeguarded by both domestic and international organizations and agreements. The first significant international statement establishing the notion of human rights and outlining its components in terms of economic, civil, political, cultural, social, and other rights is the Universal Declaration of Human Rights (UDHR). Juvenile rights are included under human rights in other documents such as the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and specifically in United Nations Rules for the Protection of Juveniles Deprived of their Liberty. The authors made an effort to elucidate the connection between human rights and juvenile justice. This paper will explain the essential juvenile rights and the challenges in the path of juvenile justice. This paper will provide vital suggestions for the policymakers and interested parties of the theme.

Keywords- Juvenile Justice, Child Rights, Human Rights, International Organization and International Instruments.

¹ Ph.D. Scholar at Lucknow University

² Ph.D. Scholar at School of Law, Bennett University

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1. Introduction

The rights of every individual must be upheld by national and international bodies, and they must be respected and safeguarded in every manner. For human survival, basic rights including the right to food, clothing, and life are essential. These rights are innate to all people. In a similar spirit, in order to provide for their fundamental needs, juvenile rights must be respected and protected. A significant fraction of the world's population is underage, making them vulnerable and in need of care. Governments have an obligation to safeguard the rights of these children and enact welfare laws and policies for this age group of young people. From that vantage point, many different rights are involved, and many more rights need to be defined because of the rapidly evolving circumstances. The authors of this paper concentrate on the international documents that address human rights in the context of juvenile justice.

Certain fundamental rights are necessary for a newborn in order to survive and meet their basic requirements. In a similar vein, all people are born with some fundamental rights, commonly known as human rights or fundamental rights. To protect the fundamental rights of all people, every nation enacts laws. Without exception, without bias or discrimination, all people are entitled to these unalienable rights. The World Forum is even working on the provisions for the safeguarding and protection of all humans and ensuring all their human rights. The international legal framework present in the global scenario is having plethora of instruments in this regard, like the Universal Declaration of Human Rights (UDHR)³, the Convention on the Rights of the Child (CRC)⁴, the International Covenant on Civil and Political Rights (ICCPR)⁵, and the International Covenant on Economic, Social, and Cultural Rights (ICESCR)⁶. These human rights include juvenile rights also. This paper is an attempt

³ Universal Declaration of Human Rights, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited May 24, 2024)

⁴ Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (last visited May 24, 2024)

⁵ International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49, <https://www.ohchr.org/sites/default/files/ccpr.pdf> (last visited May 24, 2024)

⁶ International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3

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to explain the evolving dimensions, challenges, and solutions for the juvenile justice system concerning human rights.

1.2. Human Rights for the Youth Age

Human rights protection is a broader concept, instead of going into the ocean of human rights, the authors have only dealt with the theme of the rights of children particularly focusing on juvenile justice. The various articles studied for this paper have given the framework that juvenile justice systems have numerous vacuums and need to be filled through rules and regulations at domestic and international levels. Vulnerability is most common in children⁷ in any society, it creates the need to provide safe and secure surroundings for the children. The children from the socially weaker section, financially weaker sections, child abuse and exploitation, etc. are the most vulnerable children, who need the proper care and protection. the protection of this vulnerable group should be ensured by the global community through rules and regulations.

Juvenile Justice is the system which is directly deals with all the legal rights of children who have violated the law. Then as the matter is of the juveniles, the juvenile justice system needs to work properly, as any injustice with the juvenile can affect his/her whole life. The concept of “child in need of care and protection” (CINC)⁸ is comes into the picture, as a CINC child needs the most protection because they are vulnerable and are victims of exploitation and abuse. Thus, CINC cases need special attention.⁹

The idea for the protection of juveniles can be found in every country. One such idea that can be used is the Juvenile Justice Standards Project (J.J.S.P.)¹⁰ which was formed in 1971 and has given various guidelines in juvenile justice. This project was initiated by the Institute of Judicial Administration (a non-profit research organization). The drafting of standards was done by categorizing three main areas the juvenile delinquent, children who have not broken

January 1976, in accordance with article 27, <https://www.ohchr.org/sites/default/files/cescr.pdf> (last visited May 24, 2024)

⁷ Chris Cunneen, Barry Goldson & Sophie Russell, Juvenile Justice, Young People and Human Rights in Australia, 28 CURRENT ISSUES CRIM. JUST. 173 (2016)

⁸ Juvenile Justice & Children’s Rights, TIMES OF INDIA (JAN 07, 2023, 16:23 IST) <https://timesofindia.indiatimes.com/readersblog/lawpedia/juvenile-justice-childrens-rights-48941/> (last visited May 24, 2024)

⁹ Ibid.

¹⁰ Irving R. Kaufman, Of Juvenile Justice and Injustice, 62 A.B.A. J. 730 (1976).

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the legislation, and matters that involve all the children.¹¹ This project has significantly focused on the trial process and given the idea of protection of juveniles during the process and after if he/she has been convicted. As a reason of tender age, the child needs to be corrected by reformatory means and make him/her ready to enter the world after completing the punishment with an improved version. It is not possible to write the whole project, as the broader idea is only given by the authors. These ideas, standards, or rules clearly explain the problems of the juvenile justice system along with the framework to improve it. These all ideas of protection have their origins in human rights.

1.3. International Law Explaining the Human Rights.

International law has a plethora of conventions and documents in the context of human rights. The first document to talk about human rights is the Universal Declaration of Human Rights (UDHR)¹². UDHR is the essential document that created the base for human rights which must be universally accepted. It was drafted by the representatives of different countries across the globe. It was done to bring diversity and every aspect from all the countries of the world. This diversity and inclusivity from different countries has helped to establish a document that will be universally accepted and has elements from all regions or parts of the world. It was proclaimed on Dec. 10, 1948, by the United Nations General Assembly. It is known as the common standard of achievement for all peoples and all nations.¹³ This document becomes the pillar base for future treaties and agreements on human rights.

The United Nations Convention on the Rights of the Child (CRC) has been one of the important treaties in respect to child rights and this treaty is the most ratified of all the international human rights treaties.¹⁴ It directly deals with the juvenile rights. Children who are arrested in the global community have protection under the Convention on the Rights of the Child¹⁵. Due to the different laws in different countries, there was a need for common

¹¹ Ibid.

¹² Universal Declaration of Human Rights, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited May 15, 2024)

¹³ Ibid.

¹⁴ Chris Cunneen, Barry Goldson & Sophie Russell, Juvenile Justice, Young People and Human Rights in Australia, 28 CURRENT ISSUES CRIM. JUST. 173 (2016).

¹⁵ Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, <https://www.ohchr.org/sites/default/files/crc.pdf> (last visited May 21, 2024)

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rules for juveniles. Some states treat children as adults during the trial and sentencing period, for those countries, it is needed adult and child punishment must be distinguished. Even the gravity of punishment needs to be considered when it is concerned with the child.¹⁶ CRC along with the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) explains that human rights and the rights of juveniles are easily visible in these documents in the categories of social, economic, political, civil, cultural, etc. Some broader human rights of juveniles from these above documents are fair trial, protection from all forms of violence, right to be heard, right to speedy justice, right to life, right to survival, right to education, right to development, right to contact to family, etc.

Then some rules by the international organization were made especially focusing on juveniles. United Nations Rules for the Protection of Juveniles Deprived of their Liberty¹⁷ and these rules were made by the United Nations with the aim to promote the physical and mental health of juveniles and the concept of imprisonment should not be the primary objective, but it should be the last option in the context of juvenile justice. These rules along with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)¹⁸ should be used for the cases of the deprivation of liberty of juveniles.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty¹⁹ have been intended to establish the minimum standard that must be accepted by the global community in the path of protection of juveniles and providing all human rights. These rights are directly related to the fundamental freedoms of the person and protection from unlawful detention or deprivation of liberty. Even these rules demand the involvement of the professionals in the juvenile matters. The state must come forward in the incorporation of these rules through

¹⁶ Youth Justice, <https://www.hrw.org/topic/childrens-rights/youth-justice> (last visited May 21, 2024)

¹⁷ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Adopted by General Assembly resolution 45/113 of 14 December 1990, https://www.ohchr.org/sites/default/files/res45_113.pdf (last visited May 20, 2024)

¹⁸ United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), Adopted by General Assembly resolution 40/33 of 29 November 1985, <https://www.ohchr.org/sites/default/files/beijingrules.pdf> (last visited May 21, 2024)

¹⁹ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Adopted by General Assembly resolution 45/113 of 14 December 1990, https://www.ohchr.org/sites/default/files/res45_113.pdf (last visited May 20, 2024)

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national legislation and safeguard the juveniles through monitoring the application of these rules.

Some viable incorporation points from these rules are-

- Establishment of an awareness programme for the public to foster the relation between the local society and the returned home juvenile (point 8)²⁰.
- This document has considered every person under the age of 18 as a juvenile.
- The juveniles whose liberty has been curtailed should not be denied the civil, economic, political, social, or cultural rights in the national legislation and international legislation. (point 13)²¹.
- Juveniles should be presumed innocent and the detention of juveniles before the trial must be avoided. The alternative ways must be applied in these situations to prevent the detention. The judicial system and administrative systems of the countries must work to solve juvenile cases in the fastest trial mode. (point 17)²².
- The juvenile must be provided a safe environment for the detention and the basic rights related to sleeping, cleanliness, food, etc. must be provided to the juveniles.
- The opportunity for education must be provided in the aim to prepare the juvenile for the return to society and must have all the abilities, skills, and education to survive in the society. The education of juveniles must be a compulsory provision in the legislation of the countries. (point 38)²³.

These are various important rules explaining the human rights of juveniles that should also be considered by the competent authorities while making the rules and regulations. These conventions and guidelines for juvenile justice should be part of domestic legislation of all the nations of the globe.

²⁰ Point 8 in United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Adopted by General Assembly resolution 45/113 of 14 December 1990, https://www.ohchr.org/sites/default/files/res45_113.pdf (last visited May 20, 2024)

²¹ Point 13 in United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Adopted by General Assembly resolution 45/113 of 14 December 1990, https://www.ohchr.org/sites/default/files/res45_113.pdf (last visited May 20, 2024)

²² Point 17 in United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Adopted by General Assembly resolution 45/113 of 14 December 1990, https://www.ohchr.org/sites/default/files/res45_113.pdf (last visited May 20, 2024)

²³ Point 38 in United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Adopted by General Assembly resolution 45/113 of 14 December 1990, https://www.ohchr.org/sites/default/files/res45_113.pdf (last visited May 20, 2024)

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2. Suggestions

Some viable suggestions for the theme are-

1. Adopting the international norms- A Plethora of international documents are available in the international rules and regulations regarding juvenile justice. The key components of the documents must be incorporated into national laws worldwide through appropriate debate in accordance with national legal procedures. The international agreements that are universally supported must be made available to the countries as a source of guidance.

2. Rehabilitation programmes for juveniles- Instead of locking children up, the juvenile justice system must support services for rehabilitation. The harsh and rigid sentencing standards reduce the juvenile's potential for improvement. It is imperative that these rehabilitation activities foster the possibility of a behavioural improvement for the juvenile.

3. Sensitizing society in the context of societal attitudes- Following the completion of their sentence, the juveniles are subjected to the discriminatory social behaviour of society. The attitude of the community is crucial in helping the juvenile person adjust to a new stage of life; any negative comments or actions from community members toward the juvenile person can cause him to develop a negative outlook. Recidivism will decline as a result of society being more understanding of juvenile issues.

4. Educational support- Everything that the juvenile offender needs to improve themselves must be given to them. Similar to aiding with legal and mental health needs, support for education must be given at any cost. In order to help the juvenile offender behave better in social situations and even better prepare him or her for adulthood, education support must be given. After serving his or her sentence, the educated juvenile finds it easy to begin a new life. For the juveniles to receive educational help, infrastructure needs to be upgraded and improved.

3. Conclusion

In the context of juvenile justice, there are numerous laws in the international legal framework for the protection and welfare of young people. The purpose of international documents should be to bring about legal change in society, not to prescribe ethical norms. The domestic legislation of India incorporates the element of international rules pertaining to

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child protection. The key elements of the global framework are also seen in the Indian Juvenile Justice Act. When vulnerable populations, such as children, are safeguarded in all circumstances, justice can triumph in society. These international agreements need to take into account the changing circumstances and serve as a foundation for national laws. In order to achieve equity and justice for young people worldwide, human rights and juvenile justice should be integrated into national and international rules. As a result, this paper can be utilised to comprehend the human rights provisions found in international agreements pertaining to juvenile justice.



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