

Forum: The Human Rights Council

Issue: The Question of Human Rights and the Administration of Juvenile Justice

Student Officer: Sapphire Amara Faruque

Position: Deputy President

Introduction

On the 20th of November, 1989, the date that marked the 30th anniversary of the Declaration of the Rights of the Child (DRC) became the day the United Nations General Assembly adopted the Convention on the Rights of the Child (CRC). When adopted, this convention played a key part in defining who or what exactly was considered a child (Article 1 clearly states a child is defined as any person below the age of 18, unless otherwise specified within the laws of the governing body), but more than that, what their basic rights would be when children were not seen as people solely to be cared for, but as their own being.

According to Article 37 of the CRC, “No one is allowed to punish children in a cruel or harmful way. Children who break the law should not be treated cruelly. They should not be put in prison with adults, should be able to keep in contact with their families, and should not be sentenced to death or life imprisonment without possibility of release,” and Article 40 clearly states, “Children who are accused of breaking the law have the right to legal help and fair treatment in a justice system that respects their rights. Governments are required to set a minimum age below which children cannot be held criminally responsible and to provide minimum guarantees for the fairness and quick resolution of judicial or alternative proceedings.”

Article 12 of the CRC ensures that children have the right to be heard when decisions are being made concerning their welfare, also interpreted as the right to speak at their own trial. The CRC is the base foundation off of which we are able to understand whether or not a child is receiving their own fundamental rights. During the time of juvenile justice specifically, it can be difficult to maintain this transparency, as different nations have different views on the extent to which a child should be punished, and the age at which legal action may be taken against a child. By adopting the CRC, it is ensured that children will have access to their own rights even when they are affected by the administration of justice (whether criminal, separation, or adoption proceedings), differing in key aspects from the Universal Declaration of Human Rights (UDHR).

Definition of Key Terms

Juvenile

Of, for, or relating to young people, synonymous with child for the entirety of this document.

Child

A young human being below the age of puberty or below the legal age of the majority, defined by the CRC as a person below the age of 18 unless otherwise specified by a nation's laws.

Justice

The administration of the law or authority in maintaining just behavior or treatment.

Criminal Responsibility

Relating to the mental state of the person at the time of the crime.

Human Rights

A moral, or legal entitlement to have or obtain something, or to act in a certain way that is believed to belong justifiably to every person.

Universal Declaration of Human Rights

A declaration adopted by the United Nations General Assembly (UN GA) as a common standard of achievements for all peoples and all nations, setting out, for the first time, fundamental human rights to be universally protected.

Background Information

Declaration of the rights of the child

In the year of 1924, the League of Nations (LON) adopted a document known as the Geneva Declaration. This Declaration was significant in that it served as the first recognition and affirmation of the existence of rights specifically towards children, and the responsibility of adults in the lives of these children. However, following the adoption of the UDHR in 1948, the definition of basic rights was advanced, and the Geneva Declaration then fell short. Thus the UN drafted a second Declaration, this time known as the CRC, adopted unanimously by all 78 member states of the UN GA on the 20th of November, 1959.

Significance

For the first time ever, rather than being regarded as objects subject to obligatory care and charity, by defining a specific set of rights the UN allowed children to be seen as humans requiring guidance and targeted support to ensure growth, a responsibility that is shared by not only parents but all legal adults within communities. It showed the world that children needed appropriate legal protection before as well as after birth, in all issues surrounding their growth and wellbeing.

Areas of Improvement

What this Declaration failed to do was define the age boundaries set on a child, primarily due to the fact that this would mean taking a stance on abortion. The DRC stated 10 main principles of child rights:

1. The right to equality, without distinction on account of race, religion or national origin.
2. The right to special protection for the child's physical, mental and social development.
3. The right to a name and a nationality.
4. The right to adequate nutrition, housing and medical services.
5. The right to special education and treatment when a child is physically or mentally handicapped.
6. The right to understanding and love by parents and society.
7. The right to recreational activities and free education.
8. The right to be among the first to receive relief in all circumstances.
9. The right to protection against all forms of neglect, cruelty and exploitation.
10. The right to be brought up in a spirit of understanding, tolerance, friendship among peoples, and universal brotherhood.

In addition, there is little to no specification on rights concerning the implementation of justice, and the forms in which their protection would take place, among others. Although the DRC was a good starting place for the UN to address child rights, it would need to be much further developed to ensure fairness and the achievement of all rights.

Convention on the rights of the child

The current CRC was adopted by the UN GA 30 years after the DRC, on the 20th of November 1989. The CRC showed significant improvement from the standards, and somewhat limited rights set out in the DRC. It was created in response to injustices in the upbringing and lives of children, as well as to further define criminal responsibility, and the special needs required by those under the legal age of adulthood. In addition to having a more refined set of rights, this Convention led to the creation of the Committee on the Rights of the Child. The committee consists of a group of 18 experts who meet tri-

annually in Geneva, who provide guidance, and monitor the upholding and respect of the rights of children.

Significance

By defining who is and isn't a child in the first article, the Convention allowed for a clearer depiction of who would receive the rights of the child. In addition, overall rights were significantly more specific, as the Convention includes over 40 articles, each serving its purpose to define a different right that should be accessible to all those defined as children. The CRC served as a newer way of thinking and working towards development for a better, more stable future. The Convention articulates the rights specific to juveniles and would provide the necessary environment and means to grow to their full potential. It also stresses the importance of each and every one of the articles in the upbringing of children to ensure their growth and understanding of their own rights, which will also change as they grow and begin to comprehend more.

Areas of Improvement

The current convention is quite thorough in its description of the rights for children. However, one crucial aspect that is directly relevant to juvenile justice is the age of adulthood. Although it is defined as 18, the article also states that if nations already have their own ages defined that is allowed. However, hypothetically, in some cases nations who choose to adopt the Convention can do so, yet lower the age of adulthood so that consequences faced by those who are young can be much more severe, and as such the ["Beijing Rules"](#) were drafted.

Key Issues

Legal Age of Adulthood

As mentioned, though the CRC sets its own definition of the legal age of adulthood, this can differ from nation to nation, causing discrepancies in the severity of justice when served to children, as well as ages of criminal responsibility. Though 18 is commonly seen as the age one becomes an adult, saying that is the universal age of adulthood is untrue, as there are still countries who define an adult using a different age.

Severity of justice

The severity of justice and institutionalization depends on the age of the juvenile and what country they are in. For example, in the UK, children between the ages of 10-17 may be prosecuted and face time in juvenile detention centers. The rights to these detention centers are an integral part, as though they have broken the law, placing children with fully grown, adult

criminals who have most likely committed more serious crimes can create a dangerous environment which goes directly against children's right to a safe place to live.

Criminal Responsibility

Under the age of 10, in the UK, children do not face criminal responsibility and cannot be charged with committing an offence. Repeat offenders may be taken into care or have their parents held responsible for their actions, however typically they would be subject to a local child curfew or child safety order. These actions specific to those under the age of 10 are due to the fact that the state of mind at the time that the crime is committed is different to that of a fully grown adult. Children are not always completely aware of the consequences of their actions, especially when they are extremely young, making it unfair to severely punish them, which would not only be a violation of their basic rights, but also lead to damaging mental states in the future.

Juvenile Mistreatment

Though the rights of children are clearly identified and have been adopted, that isn't to say that all establishments maintain these rights, and the abuse and mistreatment of children faced by juvenile justice is an ongoing issue that has yet to be resolved. In one example, 6 aboriginal Australian boys were filmed being mistreated, having been stripped naked, tear gassed, held in solitary confinement, and shackled to a chair as a measure of restraint. This sparked national outcry and caused hundreds of adults to protest these actions, leading to the PM ordering an inquiry into the allegations. This demonstrates how adults in society have a role to play in maintaining the rights of children, using their voice to speak for those who are unable, though they should not be having to do so, as the aim is to provide children all their rights, and not have a right become a luxury.

Major Parties Involved and Their Views

United Nations Children's Fund (UNICEF)

More commonly referred to as UNICEF, this organization's fundamental mission is to promote the rights of all children, in all countries, in each project the organization takes part in. As a global organization the reach of UNICEF is far and wide, and their resources allow them to spread and send information across a vast network with ease. UNICEF strengthens local laws that ensure the protection of child rights, and supports countries to ratify and implement the convention and its optional protocol, and also helps families, governments, and communities recognize their part in ensuring that the rights of every child are met to the best standard possible. The organization also supports the CRC and assists the affiliated committee.

European Union (EU)

One of the objectives set forth by the European Union (EU) is to promote and protect the rights of the child, as well as doing their best to ensure all policies and actions with an impact on children must be designed, implemented and monitored in line with the best interests of the child. The Treaty of Lisbon introduced the objective for the EU to promote the rights of children, and the Charter of Fundamental Rights of the EU assures the protection of children's rights by associations working for the EU and EU countries implementing EU law.

Human Rights Watch (HRW)

As a group that advocates for and believes in the successful implementation of universal human rights, the HRW also strives to promote, and ensure that the rights of children around the globe are being upheld to the proper standards. The HRW looks into cases where rights are not being upheld and publicizes information to raise awareness of the situations and facts about juveniles not receiving their basic rights.

Children's Rights Alliance for England (CRAE)

CRAE is an organization that seeks to see all rights of children set out in the CRC assured and fully implemented. Through lobbying to the government, providing supportive test cases, and using national and international human rights mechanisms, the CRAE protects the human rights of those living in England.

Timeline of Relevant Resolutions, Treaties and Events

Date	Description of event
	Geneva Convention
1924	The Geneva Convention is drafted and adopted by all member states of the UN.
	Universal Declaration of Human Rights
December 10, 1948	The UDHR outlines basic rights and fundamental freedoms that should be guaranteed to every person, and is adopted by the UN.

Declaration of the Rights of the Child

November 20, 1959 The Geneva Convention has become outdated due to the expansion of basic human rights from the UDHR and needs more specificity, resulting in a newer version being drafted, signed, implemented, and renamed the Declaration of the Rights of the Child (DRC).

Ratification of CRC

September 2, 1990 After attaining the required number of ratifications, the CRC officially comes into force on this day.

Relevant UN Treaties and Events

- International Covenant on Civil and Political Rights, 1966
- Convention on the Rights of the Child, 1989
- Declaration of the Rights of the Child, 1959
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990
- United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), 1990
- Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally, 1986
- Administration of juvenile justice, 21 July 1997, ([Resolution 1997/30](#))
- African Charter on Human and Peoples' Rights, 1981
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), 29 November 1985, ([A/RES/40/33](#))
- Conventions on the Rights of the Child, 20 November 1989, ([A/RES/44/25](#))
- African Charter on the Rights and Welfare of the Child, 1990
- American Convention on Human Rights, 1969

- European Convention on Human Rights, 1950
- Recommendation No. R (87) 20 of the Committee of Ministers of the Council of Europe to Member States on Social Reactions to Juvenile Delinquency
- Human rights in the administration of justice, in particular juvenile justice, 14 October 2011, [\(A/HRC/RES18/12\)](#)

Evaluation of Previous Attempts to Resolve the Issue

Starting with the Geneva Declaration, developing that idea further into the Declaration of Rights of the Child, and finally adopting the Convention on the Rights of the Child, the rights of juveniles have considerably developed since their inception. Juvenile justice was not addressed until the CRC, yet it now has its own Article, and plays a key factor in a few others. To ensure the rights of children, juvenile justice takes specific measures, such as separated detention facilities, an age of criminal responsibility, different forms of justice, and more. These measures have been created to protect the rights and ensure that children are able to develop in the environment best suited for their growth. Although there have been continuous efforts, there are still high levels of mistreatment occurring towards juveniles, directly violating their fundamental rights, which must be resolved.

Possible Solutions

Establishing clear laws regarding juvenile justice, and separating them from those related to adult justice, will first and foremost clarify and make it easier to understand, but also easier to find in defense of a child in case any incidences of human rights violations occur. To establish these laws, nations could follow the example of India in creating and continuously updating their [Juvenile Justice \(Care and Protection of Children\) Act, 2000](#). Several high courts also created “Juvenile Justice Committees”, headed by their respective judges, to monitor and ensure the implementation of this act.

Teaching children about their rights and the implications of their actions from a young age will help understand what they are supposed to do in case anything happens. This can be implemented into government funded schooling, both primary and secondary, to ensure the broad reach of this knowledge. School curriculums may need to include classes or counselling sessions, as well as sending information through parents to teach their children. Clauses as such can be added to acts and bills which legislate juvenile justice and the protection of children.

To combat the mistreatment of juveniles, especially at detention facilities, education and proper screening of guards must occur. When granted positions of power with little education, the power can be

abused and result in violations of children's rights. This means that governments should pursue detailed background checks on police candidates, as well as require a high standard of training before allowing them to handle juveniles, possibly including further in depth application processes to become a juvenile detention officer consisting of interviews, employee profile assessments, psychologist evaluation, criminal record cross-check, and any other measures deemed necessary. Continued regular check ups, as well as monitoring systems within juvenile detention facilities will continue to help ensure the rights of juveniles during the administration of justice.

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