

CCPCJ- Topic 1- MEASURES TO REQUEST INTERNATIONAL STANDARDS OF JUVENILE JUSTICE AND JUVENILE CORRECTIONAL SERVICES



CCPCJ
Commission on
Crime Prevention and
Criminal Justice

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I. Introduction to the topic



Juvenile delinquency refers to criminal acts committed by individuals under the age of 18. The problems of juvenile delinquency range from minor offenses, such as truancy or vandalism, to serious offenses like robbery, assault or even murder. Some common causes of juvenile delinquency include family problems, peer pressure, poverty, substance abuse and mental health issues.

The current situation of juvenile delinquency in the world is complex and varies depending on the region and country. According to a report by the United Nations Office on Drugs and Crime, there has been an increase in juvenile crime rates in some countries, while other countries have seen a decrease. Factors such as economic conditions, social inequality and political instability contribute to the problem.

To counter juvenile delinquency, it is important to address the underlying causes of the behavior. This can include providing education and resources to families, promoting positive peer relationships and addressing mental health concerns. Programs that focus on rehabilitation and reintegrating juvenile offenders into society can also be effective in reducing recidivism rates. Additionally, community-based initiatives, such as after-school programs and mentorship programs, can provide positive alternatives to delinquent behavior and help young people develop positive life skills.

The nongovernmental organization Human Rights Watch states that “children around the world who are arrested and detained for alleged wrongdoing are often not given the protections they are entitled to under the Convention on the Rights of the Child. In many countries, children are charged and sentenced for acts that should not be crimes—such as truancy or misbehavior at home. Some states set a minimum age of criminal responsibility lower than the internationally acceptable age of 14. Some states also treat certain children, especially older adolescents or children who are accused of particularly serious crimes, as if they were adults during their trial and sentencing. Sentences of death, life without parole, and corporal punishment are still handed down in some countries, in violation of international law. The international prohibition on detaining children with adults is also often violated.”

II. Definition of juvenile criminal law



In juvenile criminal law, the focus is on education rather than punishment. This explains why the range of possible sanctions is relatively broad and why there is no fixed range of punishment for the respective offense. A distinction is made between two types of sanctions: disciplinary measures and educational measures. In this way, the juvenile can be obliged by judgment e.g., to perform community service, or to participate in anti-aggression training.

Only if these educational measures are not sufficient, so-called disciplinary measures or the actual criminal punishment of juvenile criminal law, the so-called juvenile sentence, can be ordered. Conditions are more severe warnings in the form of an atonement, if possible, related to the offense (e.g., by apologizing to the offender, by performing work or by making amends for the damage caused by the offense).

A much harsher sanction is the so-called youth detention. In this regard, a distinction is made between recreational, short-term and permanent detention. During this time, the juvenile must live in a detention centre for hours or weeks at a time. The detention can last from a few hours a day to four weeks (in the form of permanent detention). Juvenile detention can always be ordered and enforced if, on the one hand, educational measures are not (or no longer) sufficient and, on the other hand, a juvenile sentence does not (yet) seem appropriate.

The most severe sanction, however, is the juvenile sentence. It is the only criminal penalty provided in juvenile criminal law and in this respect differs significantly from the previously described disciplinary measures and educational measures. It is a custodial sentence specially designed for juveniles and adolescents for a period of at least six months, which in special cases may last up to ten years and must be served in a juvenile penal institution. It may only be imposed because of so-called harmful tendencies or because of a particular seriousness of guilt.

Another special feature of juvenile criminal law is juvenile court assistance. Throughout the proceedings against a juvenile or adolescent, the juvenile court assistance must be called in by the juvenile court. The juvenile court assistance in criminal proceedings advises the young offenders and their families, attends court hearings, makes suggestions for a possible verdict and takes care of the appropriate aftercare.

III. Current situation with a special emphasis to root causes for individual standards



The current situation with juvenile justice standards varies widely across the world. Many countries have established their own systems and standards for juvenile justice, while others still struggle to implement basic protection for young people involved in the justice system. The root causes for different standards in juvenile justice around the world can be complex and multifaceted, but some key factors include:

- **Cultural and historical factors:** Juvenile justice systems have developed in different ways in different cultures and countries, based on their unique histories, values, and legal systems. For example, some countries may prioritize rehabilitation and restorative justice, while others may focus more on punishment and deterrence.
- **Legal frameworks:** The legal frameworks and policies governing juvenile justice can vary widely between countries, and even within countries at the state or provincial level. Different legal frameworks can impact the standards for things like detention, sentencing, and access to legal representation and support.
- **Economic and social factors:** Economic and social factors can also play a role in shaping juvenile justice standards. For example, countries with higher levels of inequality or poverty may struggle to provide adequate resources and support for young people involved in the justice system, which can lead to lower standards of care and treatment.
- **Political factors:** Political factors, such as the priorities and values of elected officials and policymakers, can also influence juvenile justice standards. For example, in some countries, politicians may prioritize punitive approaches to juvenile justice to appeal to certain constituents or respond to public perceptions of crime and safety.
- **International standards and pressure:** Finally, international standards and pressure can also play a role in shaping juvenile justice standards around the world. For example, the United Nations Convention on the Rights of the Child sets out basic standards for the treatment of children involved in the justice system, and countries may be pressured to adopt these standards through international agreements or public pressure.

IV. Measures taken by the UN to face the problem

The United Nations have taken several steps to promote and guarantee minimum standards for juvenile justice and detention conditions for juveniles. Following measures are part of their solution for this problem:

1. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, also known as the Beijing Rules, were adopted by the UN General Assembly in 1985. These rules provide guidance on the treatment of children in the criminal justice system, emphasizing the importance of rehabilitation and reintegration rather than punishment.

2. The United Nations Rules for the Protection of Juveniles Deprived of their Liberty, also known as the Mandela Rules, were adopted by the UN General Assembly in 2015. These rules provide minimum standards for the treatment of juvenile detainees, including provisions on access to education, healthcare, and family visits, as well as protections against torture and other forms of abuse.

3. The United Nations Global Study on Children Deprived of Liberty, launched in 2016, aimed to provide a comprehensive overview of the situation of children deprived of their liberty around the world. The study identified good practices and made recommendations to promote the rights and well-being of children in detention.

4. The United Nations Committee on the Rights of the Child, which monitors the implementation of the UN Convention on the Rights of the Child, provides guidance to governments on how to ensure the rights of children who are accused or convicted of a crime. The Committee also issues concluding observations and recommendations to governments on how to improve their juvenile justice systems.

5. The United Nations Office on Drugs and Crime (UNODC) provides technical assistance to governments on how to strengthen their juvenile justice systems and ensure compliance with international standards. This includes support for the development of alternative measures to detention, as well as training for justice professionals on juvenile justice and child-friendly justice practices.

V. International rules for the detention conditions of juveniles



There are special detention conditions for juveniles in many countries around the world. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, also known as the "Beijing Rules," provide guidance on the treatment of juveniles in detention, including the following:

- Separation from adults: Juveniles should not be detained with adults, except in exceptional circumstances and for the shortest possible time.
- Provision of education and vocational training: Juveniles in detention should have access to education and vocational training, as well as opportunities for recreation and cultural activities.
- Access to healthcare: Juveniles in detention should have access to appropriate healthcare services, including mental health services when necessary.
- Respect for human dignity: Juveniles in detention should be treated with respect for their human dignity and should not be subjected to any form of cruel, inhuman, or degrading treatment or punishment.
- Family contact and support: Juveniles in detention should have regular contact with their families and should be allowed to receive visits and correspondence from family members.

VI. Consequences of imprisonment for juveniles

There is some doubt about the extent to which a juvenile sentence contributes positively to education.

Above all, the available data on so-called legal probation, i.e., the proportion of persons who do not become conspicuous for crime again after serving a prison sentence, speak at first glance rather against the effectiveness of a prison sentence. Although dramatic figures - there is talk of a recidivism rate of about 70 % - must be treated with caution, even with a cautious estimate it must be assumed that about half of the young people and adolescents who must serve a prison sentence return to prison at least once more. Almost 30% of those sentenced remain in the cycle of crime and punishment for a longer period of time.

On the other hand, there are young people who do not re-offend after a juvenile sentence; even with pessimistic estimates, almost one third do not re-offend after the first sentence. These people show that the way to prison does not necessarily have to be the way to doom. Beyond personal impressions and psychological plausibility, however, far too little is known in detail about how a prison sentence really influences a person's development. Can prison actually fulfil the educational mandate associated with the imposition of a juvenile sentence? In what way? For which persons? Does this depend on the conditions of imprisonment? What can increase the chances that juveniles will not re-offend after a juvenile sentence? Are there indications of unnecessary or easily avoidable negative effects of a prison sentence? What happens to a young person who has to live in such an institution for months and years?

VII. Rehabilitation measures for juveniles after imprisonment

Certainly, there are various international rehabilitation measures for juvenile offenders that are recognized as effective ways to promote their rehabilitation and reintegration into society:

- **Education and vocational training:** Providing education and vocational training opportunities to juvenile offenders can support the juvenile offenders in acquiring new skills and knowledge that can help them secure employment and reintegrate into society.
- **Counseling and mental health services:** Many juvenile offenders have underlying mental health or emotional issues that contribute to their offending behavior. Counseling and mental health services can help them address these issues and develop healthier coping strategies.

- **Family-based interventions:** Family-based interventions involve working with the families of juvenile offenders to help them provide a supportive and stable home environment. This can include family therapy, parenting classes, and other types of support.
- **Restorative justice:** Restorative justice involves bringing together the offender, victim, and community to repair harm caused by the offender's actions. This approach can help juvenile offenders develop empathy and take responsibility for their actions.
- **Community-based alternatives to detention:** Instead of placing juvenile offenders in detention facilities, community-based alternatives such as probation, community service, and diversion programs can be used to promote rehabilitation and reintegration while also holding the offender accountable for their actions.
- **Aftercare and follow-up services:** Providing aftercare and follow-up services to juvenile offenders after they leave a correctional facility or program can help them stay on track and avoid reoffending. This can include mentoring, job training, and other types of support.

VIII. Alternative punishments for juvenile offenders in international law

In international law, there are various alternative punishments that can be applied to juvenile offenders instead of traditional forms of detention and punishment. These alternatives are often seen as more rehabilitative and better suited to addressing the underlying causes of the juvenile's offending behavior.

- **Diversion programs:** Diversion programs involve diverting juvenile offenders away from the formal justice system and into community-based programs that focus on rehabilitation and reintegration. These programs may include counseling, education and job training, and restorative justice practices.
- **Probation:** Probation involves suspending the sentence of a juvenile offender and placing them under the supervision of a probation officer. The juvenile is required to comply with certain conditions, such as attending school, maintaining employment, and staying away from drugs and alcohol.
- **Community service:** Community service involves requiring juvenile offenders to perform a specified number of hours of community service as a form of punishment. This can help them develop a sense of responsibility and empathy, while also benefiting the community.

- Restorative justice: Restorative justice involves bringing together the offender, victim, and community to repair harm caused by the offender's actions. This approach can help juvenile offenders develop empathy and take responsibility for their actions.
- Fines and restitution: Fines and restitution require the juvenile offender to pay a monetary penalty or make restitution to the victim or the community as a form of punishment. This can help them understand the consequences of their actions and take responsibility for their behavior.
- Suspended sentence: A suspended sentence involves imposing a sentence but delaying its implementation for a specified period of time, during which the juvenile offender is required to comply with certain conditions, such as attending school, staying away from drugs and alcohol, and staying out of trouble.

IX. Consequences of qualitative rehabilitation of juvenile offenders for society

For several reasons, it is very beneficial for states to focus on quality rehabilitation and inclusion of juvenile offenders.

- Reduce recidivism: Research has shown that quality rehabilitation programs can significantly reduce recidivism rates among juvenile offenders. By addressing the underlying causes of their offending behavior, such as substance abuse or mental health issues, these programs can help juvenile offenders develop the skills and support systems they need to stay out of trouble.
- Protect public safety: Quality rehabilitation programs can also help protect public safety by reducing the likelihood that juvenile offenders will commit future crimes. By promoting positive behavior and providing support and resources, these programs can help juvenile offenders become productive members of society.
- Uphold human rights: Inclusion of juvenile offenders in society is essential for upholding their human rights. States have an obligation to ensure that juvenile offenders are treated with dignity and respect, and that their rights are protected throughout the criminal justice process. This includes access to education, healthcare, and other basic services.
- Foster social cohesion: Quality rehabilitation and inclusion of juvenile offenders can also foster social cohesion by promoting the reintegration of these individuals into their communities. This can help reduce stigma and promote acceptance of diversity.
- Long-term cost savings: Quality rehabilitation programs may be costly in the short term, but they can result in long-term cost savings by reducing the need for future

incarceration and other criminal justice expenses. This can free up resources for other important social programs and services.

X. Measures to be able to finance the costly rehabilitation of juvenile offenders

Financing the costly rehabilitation of juvenile offenders can be challenging, but there are several measures that can be taken to help fund these programs, like:

- **Public funding:** Governments can provide public funding to support quality rehabilitation programs for juvenile offenders. This can be done through budget allocations or grants to community-based organizations that provide these services.
- **Public-private partnerships:** Public-private partnerships can also be effective in financing the rehabilitation of juvenile offenders. Private organizations can provide funding, expertise, and other resources to support the development and implementation of these programs.
- **Donor funding:** Donor funding can be an important source of financing for juvenile justice programs. Non-governmental organizations and philanthropic foundations may be willing to provide funding for specific programs or initiatives that align with their missions.
- **Social impact bonds:** Social impact bonds are a financing mechanism that involves private investors funding social programs that are expected to generate cost savings for governments in the long run. These bonds can be used to finance rehabilitation programs for juvenile offenders, with investors receiving a return on their investment based on the success of the program.
- **Cost savings:** While rehabilitation programs for juvenile offenders can be costly in the short term, they can result in long-term cost savings by reducing the need for future incarceration and other criminal justice expenses. These cost savings can be used to help fund these programs.

These are just a few examples of measures that can be taken to finance the costly rehabilitation of juvenile offenders. It is important to invest in these programs to promote positive outcomes for both individuals and society as a whole.

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Illustrations in order of appearance

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