



## Towards a global ‘child friendly’ juvenile justice?

Barry Goldson <sup>a,\*</sup>, John Muncie <sup>b</sup>

<sup>a</sup> *Department of Sociology, Social Policy and Criminology, The University of Liverpool, Eleanor Rathbone Building, Bedford Street South, Liverpool L69 7ZA, UK*

<sup>b</sup> *Department of Social Policy and Criminology, The Open University, Walton Hall, Milton Keynes MK7 6AA, UK*

---

### Abstract

The impact of globalisation on juvenile justice is increasingly conceptualised with reference to neo-liberal governance and the intensification of ‘new punitiveness’. Whatever the merits of such analyses, they have the effect of marginalising, if not completely overlooking, the extent to which international human rights instruments might serve to neutralise and/or mediate punitive currents. Indeed, it might be argued that the commitment – repeatedly expressed in official discourse – to both protect and promote the human rights of children in conflict with the law has itself come to comprise a discursive and tangible dimension of global child governance. Key signifiers of this phenomenon – at the global level – include a corpus of interrelated human rights conventions, standards, treaties and rules, formally adopted by the United Nations General Assembly, whilst at the European level authoritative rights-informed guidelines on ‘child friendly justice’, ratified by the Council of Europe, are similarly representative. Against this backdrop, this article seeks to investigate the degree to which individual nation states receive and respond to their human rights and ‘child friendly justice’ obligations. Whilst recognising the mediating capacities of formal human rights instruments, we aim to critically interrogate the relations between globalised rhetoric and localised reality; between the promise of international rights discourse on the one hand and the limitations of territorial jurisdictional implementation on the other.

© 2011 Elsevier Ltd. All rights reserved.

*Keywords:* Children; Globalism; Human rights; Informalism; Juvenile justice; Localism; Restorative justice

---

### 1. Universal human rights instruments and children

The formalisation of universal human rights was consolidated with the creation of the United Nations and the adoption of the Universal Declaration of Human Rights in 1948. Subsequently,

---

\* Corresponding author.

*E-mail addresses:* [b.goldson@liv.ac.uk](mailto:b.goldson@liv.ac.uk) (B. Goldson), [j.p.muncie@open.ac.uk](mailto:j.p.muncie@open.ac.uk) (J. Muncie).

the United Nations General Assembly adopted five further pivotal human rights treaties: the International Convention on the Elimination of All Forms of Racial Discrimination (1965); the International Covenant on Economic, Social and Cultural Rights (1966); the International Covenant on Civil and Political Rights (1966); the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984). Each and all of these treaties apply to children, young people and adults, but it was not until 1989 when the *United Nations Convention on the Rights of the Child* (UNCRC) was adopted by the United Nations General Assembly, and not until 1990 when the Convention came into force, that a universal human rights instrument focussed exclusively and comprehensively on protecting and promoting children's particular interests.

Article 1 of the UNCRC provides that the term 'child' refers to 'every human being below the age of eighteen years'. The Convention comprises 54 articles bringing together children's economic, social, cultural, civil and political rights. General measures incorporated within the UNCRC include a fundamental obligation on governments (referred to as 'States Parties') to develop and sustain a children's human rights infrastructure within their jurisdictional spheres comprising, for example: the right to non-discrimination (Article 2); the primacy of the child's best interests (Article 3); the right to life and maximum development (Article 6); and the right of children and young people to have their views given due weight in all matters affecting them (Article 12). The UNCRC also provides a range of 'civil rights' including: the child's right to freedom of expression and association; the right to receive information; and the right to protection from all forms of violence, abuse, neglect and mistreatment. The Convention further provides for every child's right to an adequate standard of living and the right to the best possible health care and educational services.

The Universal Declaration of Human Rights (1948), the UNCRC (1989/1990) and each of the intervening human rights instruments, have a bearing on juvenile justice law, policy and practice, be it direct or indirect. Economic, social and cultural rights; civil and political rights; the elimination of all forms of discrimination; safeguards against torture and other cruel, inhuman or degrading treatment or punishment; protection from violence, abuse, neglect and mistreatment; a recognition of the 'special status' of childhood; 'best interest' principles; the right to life and maximum development; the right to be informed and the right to be heard, all have salience regarding the treatment of children in conflict with the law. Furthermore, specific and identifiable provisions of these instruments, together with an additional range of more 'specialist' global and European human rights standards, treaties, rules, conventions and guidelines, relate more explicitly still to juvenile justice.

## **2. Global and European human rights instruments and juvenile justice**

Global human rights provisions with regard to juvenile justice were initially formulated via three key instruments.

First, the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (often referred to as the 'Beijing Rules') were adopted by the United Nations General Assembly in 1985. The 'Rules' provide guidance for the protection of children's human rights in the development of separate and specialist juvenile justice systems. They were a direct response to a call made by the 'Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders' that convened in 1980. Rule 4.1 provides: 'juvenile justice shall be conceived as an integral part of the national development process of each country, within

Download English Version:

<https://daneshyari.com/en/article/1098063>

Download Persian Version:

<https://daneshyari.com/article/1098063>

[Daneshyari.com](https://daneshyari.com)