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## Juvenile Justice Reform and the Principle of Best Interests of the Child: A Global Legal Perspective

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### **Abstract**

*The reform of juvenile justice systems has become a central concern in global legal discourse, particularly in aligning legal practices with the universally recognized principle of the best interests of the child. This study provides a comparative legal analysis of juvenile justice reforms across various jurisdictions, evaluating the extent to which domestic legal frameworks integrate and operationalize this principle in both legislation and judicial practice. Utilizing a normative-qualitative approach, the research examines international legal instruments—such as the United Nations Convention on the Rights of the Child (CRC)—and their influence on national juvenile justice policies in both developed and developing countries. The findings reveal significant disparities in implementation, with some systems emphasizing rehabilitation and diversion, while others retain punitive models that compromise children's rights. The study concludes that effective juvenile justice reform requires not only legal alignment with international standards but also the establishment of child-sensitive institutions, specialized training for legal professionals, and a holistic approach that considers the child's social context. This research underscores the imperative of embedding the best interests of the child as a guiding norm in both procedural and substantive aspects of juvenile justice worldwide.*

*Keywords: Juvenile Justice Reform; Best Interests of the Child; Comparative Law; Child Rights; International Legal*

### **1. Introduction**

The juvenile justice system is a specialized branch of the criminal justice system designed to deal with violations of the law committed by children or adolescents (Candra et al., 2019). In contrast to the general justice system, this system focuses on rehabilitation, social reintegration, and the protection of children's rights, not just punishment. The main principle underlying juvenile justice is the recognition of the psychological, social, and emotional conditions of children as individuals who are in the process of development (Gertrud Lenzer, 2018). Therefore, a humanistic, participatory, and educational approach is essential in handling children's cases at all stages of the judicial process (Goldson, 2011; UNODC, 2013).

The importance of reform of the juvenile justice system globally arises from the fact that there are still many legal practices that are not in accordance with international standards, including excessive detention, discrimination, and violence against children in legal proceedings (Emelonye, 2014). This reform is a must to ensure that the principle of "the best interests of the child" as mandated by the United Nations Convention on the Rights of the Child (CRC) can be applied in real terms and practices in the policies and practices of juvenile criminal justice. UN member states are encouraged to build legal systems that ensure restorative justice, diversification of non-prison sentences, and special treatment for children in conflict with the law (UNICEF, 2019; General Comment No. 24, 2019). Thus, juvenile justice reform is not only an international legal obligation, but also a strategic step to protect the younger generation from the cycle of criminalization (Young et al., 2017).

In recent decades, the world's attention to the protection of children's rights in legal proceedings has increased significantly. This is marked by international recognition of the rights of the child as equal subjects of law, not just as objects of social protection (Ferdousi, 2013). The birth of the United Nations Convention on the Rights of the Child (CRC) in 1989 was an important milestone that placed children in a central position in the justice system,

by affirming fundamental principles such as non-discrimination, the best interests of the child, the right to be heard, and the right to maximum development. The CRC has been ratified by almost all countries in the world, making it one of the most accepted human rights instruments globally (UNICEF, 2019). This reflects the international consensus that children have special rights that must be guaranteed, including when they are confronted with the law (Pratiwi, 2018)

This increased attention is also reflected in national and regional policy reforms, where many countries have begun to adopt restorative justice principles, rehabilitative approaches, and the elimination of repressive practices such as arbitrary detention of children (Cunneen et al., 2018). International agencies such as UNICEF, UNODC, and OHCHR are actively providing technical guidance and policy advocacy to ensure that the juvenile justice system is aligned with international human rights standards. In addition, important decisions from regional judicial bodies such as the European Court of Human Rights and the African Committee of Experts on the Rights and Welfare of the Child have strengthened legal protection of children in criminal contexts. Globally, there is a tendency to integrate children's rights as a key element in judicial system reform, suggesting that child protection is no longer a fringe issue, but part of the main agenda of sustainable legal development (Liefwaard & Sloth-Nielsen, 2016).

Research by Liefwaard and Sloth-Nielsen (2016) shows that although most countries have ratified the Convention on the Rights of the Child (CRC), many national legal systems have not fully adopted a rehabilitation-based approach and child participation in the judicial process. Countries such as Sweden and Canada have been credited with building systems that are responsive to the needs of child development with an emphasis on restorative and non-punitive justice approaches (Bax, 2016). However, the study also noted the existence of institutional and social barriers, such as the lack of trained human resources and the resistance of the old legal culture that tends to be repressive. Research by Goldson (2019) highlights the gap in the implementation of the principle of the best interests of children in the cross-jurisdictional criminal justice system. Some countries in Asia, Africa, and Latin America still show a tendency to implement prison sentences as the primary solution to juvenile delinquency, without considering the long-term impact on children's lives (Casey, 2011). This research emphasizes the need for harmonization between international standards and national legal frameworks through law reform, training of law enforcement officers, and strengthening the monitoring system for violations of children's rights. Thus, this study is relevant to support the importance of comparative legal studies on how the best interests of the child principle can be the main foundation in juvenile justice reform globally.

## **2. Research Methods**

This study uses a normative juridical approach with a comparative method to examine the implementation of the principle of best interests of the child in the reform of the juvenile justice system in various countries. A normative juridical approach is used to analyze legal provisions contained in international instruments such as the United Nations Convention on the Rights of the Child (CRC), General Comment No. 24 of the UN Committee on the Rights of the Child, as well as national legal documents related to juvenile justice. The comparative method is carried out to compare the legal practices and policies of juvenile justice between countries with different legal systems, such as the common law, civil law, and plural legal systems, in order to find out the extent to which the principle of the best interests for children is applied substantively and procedurally.

Data collection is carried out through document studies (library research) on primary legal sources, such as laws, government regulations, international conventions, and court decisions, as well as secondary sources in the form of scientific journals, reports of international institutions (UNICEF, UNODC), and related academic literature. Data analysis was carried out qualitatively through legal interpretation with a focus on the principles of child protection and comparison of practices in each country. This research not only evaluates the normative framework, but also identifies structural and institutional obstacles in the implementation of the best interests of the child principle, in order to provide recommendations for legal reform that are appropriate to the local context but still based on international standards.

## **3. Results and Discussions**

### **Degree of Adoption of the Best Interests of the Child Principle in National Legislation**

The principle of the best interests of the child is a fundamental principle in the legal protection of children which is expressly regulated in the Convention on the Rights of the Child (CRC) Article 3 paragraph (1), which states that in all actions concerning children, their best interests must be the main consideration. A number of countries have explicitly integrated this principle into their national legal systems. For example, in Sweden, this principle is

a cornerstone in the juvenile justice system that emphasizes the rehabilitation and participation of children in legal proceedings. Similarly, South Africa through the Children's Act 2005 expressly requires every legal and social institution to consider the best interests of the child in all decisions that concern them (Skelton, 2011). This shows that there is a concrete commitment to legislation in ensuring that this principle is not only symbolic, but also functional (Agcaoili, 2024).

On the contrary, not a few countries have ratified the CRC, but only adopt the principle formalistically in a formal manner, namely including it in laws without an adequate implementation mechanism. In some Asian and African countries, the best interests principle is textually present in regulations, but is not elaborated in operational guidelines, standards of legal procedures, or training for law enforcement officials. As a result, assessments of children's interests tend to be subjective, non-measurable, and often influenced by adult perspectives that are paternalistic (Liefwaard, 2016). Without a transparent and accountable evaluation system, this principle loses its effectiveness in preventing practices that harm children, such as disproportionate detention and criminalization of early childhood (Rap, 2016).

Countries with strong legal systems and a commitment to human rights generally establish judicial and administrative mechanisms to ensure the application of the principle of the best interests of the child. In Canada, for example, courts have clear guidelines in assessing what is in the best interests of the child in each case, both in criminal and civil contexts. In fact, law enforcement officials are trained to understand psychosocial indicators and the condition of children's families before making legal decisions. This practice emphasizes that the integration of these principles requires a detailed legal framework, institutional support, and cross-sectoral collaboration between law enforcement, psychologists, social workers, and educational institutions (Tisdall, 2015).

The ratification of the CRC has had a significant influence on national legal reform in various countries. The CRC is not only a source of moral legitimacy, but also a reference for international law that encourages structural changes in national policies on children. Many countries made revisions to their juvenile justice systems after ratifying the CRC, including the establishment of special juvenile courts, the regulation of diversion procedures, and the elimination of corporal punishment. In Indonesia, for example, the birth of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA Law) was a direct response to the ratification of the CRC in 1990, by including the principle of the best interests of children as the main principle in penyelesaian perkara anak (UNICEF Indonesia, 2015).

However, the impact of CRC ratification on legal reform is not always linear. Some countries experienced cultural and political resistance that hindered the process of internalizing the principles of CRC into the national legal system. In some countries with pluralistic legal systems, conflicts between customary norms and positive laws create tension in the implementation of the best interests principle (Ferdousi & Abdullah, 2024). In this case, the ratification of the CRC has not been fully accompanied by strong political will or the allocation of sufficient resources to build a holistic juvenile justice system. Therefore, transformative and participatory efforts are needed to encourage a shared understanding of children's rights that do not conflict with local values but still uphold universal standards (Sloth-Nielsen & Mezmur, 2008).

Overall, the degree of adoption of the principle of the best interests of children is highly determined by a combination of formal legal commitment, institutional readiness, and legal actors' understanding of the substantial meaning of the principle. Without integrative and contextual efforts, this principle has the potential to become a normative slogan that has no impact on children's waking lives. Therefore, comparative legal research is important to identify best practices that can serve as models for other countries in building a fair, humane, and future-oriented juvenile justice system as a fully developed individual.

### **The Role of Law Enforcement Institutions and Officials in the Implementation of the Principle of Children's Best Interests**

The role of law enforcement agencies and officials is very central in ensuring that the principles of the best interests of the child are applied concretely in every stage of the juvenile justice process. Officials such as police, prosecutors, judges, and social workers are not only responsible for enforcing the law, but must also understand the psychology of child development as well as non-punitive approaches that are restorative (Candra et al., 2019). Many cases show that the decisions of law enforcement officers who are insensitive to the child's condition actually exacerbate the trauma and increase the risk of repeated criminalization (recidivism). Therefore, understanding children's rights must be part of the basic competencies of every legal actor in the juvenile justice system (Goldson & Muncie, 2015).

Unfortunately, the institutional and professional capacity of law enforcement officials in handling child cases still varies greatly between countries. In some countries with advanced juvenile justice systems, such as Canada and New Zealand, law enforcement is equipped with technical guidelines and risk assessment tools that help them make data-driven decisions and child protection principles. In contrast, in many developing countries, the authorities often lack special training, and even view children as criminals on an equal footing with adults. Lack of training on children's rights, restorative justice approaches, and management of social interventions cause legal decisions to often harm the interests of children (Liefwaard, 2016).

Continuous education and training on children's rights is key to increasing the capacity of law enforcement officials. Training programs that emphasize the principles of CRC, child communication, and restorative justice have been proven to change the perspective and work practices of the apparatus. In the Netherlands (Gunawan et al., 2024; Ismail et al., 2024; Ummah, 2019), for example, mandatory training is provided to all legal professionals involved in children's cases, including modules on the stages of children's psychosocial development, child-friendly interview techniques, and the application of the principles of non-discriminatory justice (Eekelaar, 2006). The implementation of this training systematically supports institutional transformation towards a fairer and more humane juvenile justice system (Gertrud Lenzer, 2018)

Institutional case studies in various countries show that the structure of the juvenile justice system separate from the general court is able to improve the protection of children. In the United States, the existence of juvenile courts with special jurisdiction over violations of the law by children has allowed for the adoption of a more flexible and rehabilitation-oriented approach. In the Philippines, community-based diversion programs allow children who commit minor offenses not to be brought to court, but instead to be directed to education, counseling, or social service programs. The success of this program is highly dependent on collaboration between law enforcement, schools, and civil society organizations (UNICEF Philippines, 2017).

Overall, the successful implementation of the principle of the best interests of children is largely determined by the quality of human resources and institutional structures in the justice system. Without trained officials and child-friendly institutions, the principle will only become a slogan in legal documents. Therefore, institutional reforms need to include increasing professional capacity, establishing special juvenile justice units, and strengthening the system of supervision of legal decisions that affect children. Cross-sectoral synergy—between law, social, and education—is also an important element in ensuring that every child who is confronted by the law remains treated as an individual who has the right and potential to be rehabilitated.

### **Structural and Cultural Barriers in the Implementation of Juvenile Justice Reform**

The implementation of juvenile justice reform in various countries often faces significant structural obstacles, especially related to aspects of regulation, human resources, and funding (Pratiwi, 2018). Many countries have ratified the Convention on the Rights of the Child (CRC) and drafted national laws on juvenile justice, but the legal substance is often not accompanied by concrete implementing regulations or is not in sync with the applicable legal system. In addition, the limited number of law enforcement officials who are specially trained in handling children's cases is one of the main obstacles in ensuring effective legal protection of children. The inadequate state budget to finance rehabilitation programs, training of officers, and the provision of special facilities for children (e.g., child-friendly detention centers or social services) also hinders the achievement of the best interests of the child principle in practice (Liefwaard, 2016).

In addition to structural barriers, there are also challenges to the legal culture that are rooted in the justice system in a number of countries, where children are still perceived as miniature adults who can be subject to criminal sanctions just like adults (Hughes, 2023; Yanti, 2024). This view ignores the psychological and developmental aspects of the child that are the basis of the rehabilitative and restorative approach in CRC. In many jurisdictions, law enforcement officials still show punitive attitudes toward children who are confronted by the law, such as prioritizing detention over mediation or diversion. Resistance to this reform also arises due to concerns that restorative approaches are considered too lenient and do not provide a deterrent effect, even though they have proven to be more effective in preventing long-term recidivism (Goldson, 2013).

This repressive legal culture is also strengthened by the low legal literacy of children among the community, including officials, teachers, and parents. Many cases show that families and communities often support crackdowns on children who break the law, in the hope that it will produce disciplinary effects. This suggests that formal legal reform must be accompanied by a transformation of social values that place children as developing individuals and entitled to second chances. Therefore, it is important to conduct public campaigns and public education on the basic principles of child protection as part of a sustainable reform strategy (Tisdall, 2015).

Regional inequality between urban and rural areas is also a challenge in the implementation of a fair juvenile justice system. In urban areas, facilities such as special children's courts, legal assistance, and child rehabilitation centers are more accessible and supported by relatively adequate professionals. In contrast, in rural or remote areas, children in conflict with the law often lack legal assistance, are detained in inappropriate facilities, and even experience structural violence due to a lack of adequate understanding of child protection procedures. This inequality shows that the decentralization of the legal system needs to be accompanied by an equitable distribution of resources so that the principle of children's justice can be enjoyed by all children without geographical discrimination (UNICEF, 2020).

To overcome these barriers, a systemic approach is needed that includes improving regulations, strengthening institutions, and transforming the legal culture. The government must ensure that regulations that protect children have high practicality, as well as establish a monitoring and evaluation system that can identify practices that are contrary to the principles of the best interests of the child (Cunneen et al., 2018). On the other hand, cooperation between government agencies, NGOs, academics, and civil society is essential in building a legal ecosystem that is inclusive and responsive to the needs of children. Without simultaneous structural and cultural changes, juvenile justice reform risks becoming just a normative discourse with no real impact on child protection on the ground.

#### 4. Conclusion

This study shows that the application of the principle of best interests of the child in the juvenile justice system at the global level still faces great challenges, both from structural aspects, legal culture, and inequality of implementation between countries. Although many countries have ratified the Convention on the Rights of the Child (CRC) and adopted the principle in national regulations, its implementation is still often symbolic and non-operational. Countries with a rehabilitative approach tend to be more successful in protecting children's rights than countries that maintain a repressive, punitive-oriented approach. The capacity of law enforcement officials, institutional support, and the availability of resources are factors that determine the effectiveness of the implementation of this principle.

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