

**JUVENILE JUSTICE POLICY FROM THE PERSPECTIVE OF
INTERNATIONAL HUMAN RIGHTS**

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ABSTRACT

This short article offers a defense of systems of juvenile justice from a human rights perspective. It seeks to evaluate the merits of separate systems of justice for minors accused of crimes. The paper provides a brief overview of the significant body of international agreements to which states have acceded, and posits arguments on both sides of the debate as to whether juvenile protections should be strengthened or curtailed. It incorporates international research on judicial outcomes and on the treatment of juveniles, and finds significant gaps between states' commitments and practices. The paper focuses on the neuroscientific and cognitive bases for juvenile treatment, and identifies some of the misconceptions regarding juvenile crime. In the end, it is argued that adjudicating minors through separate systems of juvenile justice best serves the ends of rehabilitating the juvenile, as well as protecting society.

ARTICLE

Over the past century, systems of juvenile justice have emerged offering special protections to juveniles accused of breaking the law by virtue of their age. Based upon a belief that children are more amenable to rehabilitation, that they are particularly vulnerable when removed from their family and community networks, and that they are psycho-

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logically and physiologically different from the adult counterparts, the protections afforded by juvenile justice systems have entered into discussions pertaining to human rights. Through a number of international agreements, these protections have been recognized as fundamental attributes of a juvenile's dignity, and as such, create an obligation on the part of states to protect. This paper will offer a defense of juvenile justice policy from a human rights perspective.

Juvenile offenders are recognized as those who are charged with having committed criminal offenses prior to their eighteenth birthday.¹ The right of these juveniles to certain basic protections when charged with infringing the law is the subject of a series of international agreements pertaining to children's rights. The most prominent such agreement is the Convention on the Rights of the Child (CRC), which is the most widely ratified human rights treaty in existence, as all UN member states are party to it with the sole exceptions of the United States, Somalia, and South Sudan.² The CRC sets forth in its Articles 37 and 40 that juveniles are entitled to treatment "in a manner consistent with the promotion of a child's sense of dignity and self worth," as well as treatment which "takes into account the child's age and the desirability of promoting reintegration and the child's assuming a constructive role in society."³ These provisions are guided by the principle that juvenile justice should aim to advance a child's well-being and "best interest[s]," and secondly, that of proportionality, according to which a child should be subjected to justice only in proportion to their personal circumstances in juxtaposition to the offense committed.⁴

These rights are further expounded upon by a series of UN resolutions, each of which are concerned with specific aspects of a juvenile's involvement in the justice system. Among these are the 1985 Beijing Rules,⁵ which provided for protections for juveniles in the administration of justice, the 1990 Riyadh Guidelines,⁶ which set forth principles

¹ U.N. Rules for the Protection of Juveniles Deprived of Their Liberty (The Havana Rules), G.A. Res. 45/113, Annex, U.N. GAOR, 45th Sess., Supp. No. 49A, U.N. Doc. A/45/49/Annex (Dec. 14, 1990), at Rule 11(a).

² See ISHWOR PRASAD KHATIWADA, A RESEARCH REPORT ON ENSURING FAIR TRIAL IN CASES CHILDREN IN CONFLICT WITH THE LAWS (NEPALESE PERSPECTIVES) 41 (June 2005), available at <http://www.humanrights.dk/files/Importerede%20filer/hr/pdf/ishwor.pdf>; *Convention on the Rights of the Child*, U.N. TREATY COLLECTION, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en (last visited Oct. 21, 2012).

³ *Convention on the Rights of the Child*, Nov. 20, 1989, 1577 U.N.T.S. 3, at Art. 37 and 40.

⁴ See KHATIWADA, *supra* note 2, at 24, 31.

⁵ U.N. Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), G.A. Res. 40/33, Annex, U.N. GAOR, 40th Sess., Supp. No. 53, U.N. Doc. A/40/53/Annex (Nov. 29, 1985).

⁶ U.N. Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), G.A. Res. 45/112, Annex, U.N. GAOR, 45th Sess., Supp.No. 49A, U.N. Doc. A/45/49/Annex (Dec. 14, 1990).

for preventing juvenile delinquency in the first place, and the 1990 Havana Rules,⁷ which dealt with the protection of juveniles deprived of their liberty. These agreements demonstrate widespread support for policies that provide for separate systems of justice for juvenile offenders. Among the most significant of the principles embedded therein include a stance against the use of capital punishment or life imprisonment without parole for juveniles, the use of juvenile imprisonment only as a measure of last resort, support of the view that children have the right to be separated from adults when imprisoned, that juveniles have the right to maintain contact with family, that the state has the duty to maintain the juvenile's privacy at all stages of legal proceedings, that juveniles have the right to be considered for alternatives to judicial proceedings and institutional care (diversion), and that juveniles have the right to be subject to laws which provide for a minimum age of criminal responsibility.

The protections afforded to juveniles through international law are not vague and baseless, but are rather rooted in modern conceptions of human rights. Children lack the mental capacity to stand trial, make legal decisions for themselves, or to guide an attorney advocating on their behalf.⁸ For the same reasons by which the law refuses to grant minors the rights to vote, drive, drink, adopt children, run for office, sign legal contracts, or buy property, the law recognizes that children have yet to "grasp" the difference between "right and wrong."⁹ Psychological studies have indicated that children, including teenagers, act more irrationally and immaturely than adults, and are less likely to perceive the long-term consequences of their actions or think autonomously and free from peer pressure.¹⁰

Cognitive research suggests that children "simply think differently than adults," whereas psychosocial research confirms that "children lack social and emotional capabilities that are better developed in adults."¹¹ Such studies have concluded that "adolescent thinking is present-oriented and tends to either ignore or discount future outcomes and implications," and that teenagers only look a few days ahead when consid-

⁷ See U.N. Rules for the Protection of Juveniles Deprived of Their Liberty (The Havana Rules), *supra* note 1.

⁸ MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, *Adolescents Are Not Competent to Stand Trial*, in *SHOULD JUVENILES BE TRIED AS ADULTS?* 69, 71 (Christine Watkins ed., 2008).

⁹ Hannah McCrea, *Juveniles Should Not Be Housed in Adult Courts*, in *SHOULD JUVENILES BE TRIED AS ADULTS* 11, 14 (Christine Watkins ed., 2008).

¹⁰ Human Rights Watch, *Minors are Not as Blameworthy as Adults*, in *SHOULD JUVENILES BE TRIED AS ADULTS* 76, 77-79 (Christine Watkins ed., 2008).

¹¹ HUMAN RIGHTS WATCH, *THE REST OF THEIR LIVES: LIFE WITHOUT PAROLE FOR CHILD OFFENDERS IN THE UNITED STATES* 45-46 (2005), available at <http://www.hrw.org/reports/2005/10/11/rest-their-lives>.

ering the consequences of making a decision.¹² They also conclude that children are “less likely to look at things from the perspective of others” and are said to have “more difficulty restraining their aggressive impulses.”¹³ Children are also said to show a “greater tendency to make decisions based on emotions, such as anger or fear, rather than logic or reason”¹⁴ When placed under extreme pressure, even mature young people are said to “often revert to more child-like and impulsive decision-making processes.”¹⁵ By virtue of their psychology, children subjected to police interrogation procedures designed for adults are said to “more easily succumb to suggestion, trickery, and coercion, resulting in false self-incriminating statements.”¹⁶ The idea that there are differences in the developmental psychology of a child versus that of an adult is recognized by the international community through its embodiment within the text of the Riyadh Guidelines, which make clear that “youthful behavior or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood.”¹⁷

Neuroscience research also provides support for the conclusion that children are physiologically different from than their adult counterparts. Through the use of magnetic resonance technology (MRI), neuroscientists have “uncovered striking differences between the brains of adolescents and those of adults.”¹⁸ A “key difference” is said to exist within the prefrontal cortex of the brain’s frontal lobe, which is said to be the part of the brain which is responsible for “regulating aggression, long-range planning, mental flexibility, abstract thinking, the capacity to hold in mind related pieces of information, and perhaps moral judgment.”¹⁹ The brain of a child is said to be “composed of different quantities and types of cell matter” and have “different neural features than the adult brain,” rendering the child incapable of performing the functions that are facilitated in the prefrontal cortex.²⁰

According to Daniel R. Weinberger, the director of the Clinical Brain Disorders Laboratory at the National Institute of Health, the prefrontal cortex “allows us to act on the basis of reason,” and can “pre-

¹² *Id.* at 46.

¹³ Elizabeth Cauffman & Laurence Steinberg, *(Im)maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable Than Adults*, 18 BEHAV. SCI. L. 741, 759 (2000).

¹⁴ See HUMAN RIGHTS WATCH, *supra* note 11, at 46.

¹⁵ *Id.*

¹⁶ Barbara Kaban & Ann E. Tobey, “When Police Question Children: Are Protections Adequate?” 1 J. CENTER CHILD. & CTS. 151, 151 (1999).

¹⁷ See U.N. Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), *supra* note 6, at Guideline 5(e).

¹⁸ See HUMAN RIGHTS WATCH, *supra* note 11, at 47.

¹⁹ *Id.*

²⁰ *Id.*

clude an overwhelming tendency for action.”²¹ He also notes that it takes “at least two decades to form a fully functional prefrontal cortex.”²² Instead of utilizing the prefrontal cortex, children are said to show a tendency to use the amygdala during the course of their decision-making, which is said to be a “locus for impulsive and aggressive behavior,” rendering youth “more prone to react with gut instincts.”²³ Dr. Deborah Yurgelun-Todd of Harvard Medical School has noted that “[j]ust because [a teenager] might look physically mature, they may not appreciate the consequences for their actions or weigh information the same way adults do” and that as a result, “we may be mistaken if we think that [although] somebody looks physically mature, their brain might not in fact be mature.”²⁴ Given the ample evidence showing that children are physiologically incapable of understanding the consequences for their actions and reacting to various stimuli in the ways in which adults are expected to react, they must be recognized as different from their adult counterparts when found to have infringed the law.

There are also practical implications that render it abhorrent to subject youth to adult criminal justice systems. In fact, children adjudicated through adult criminal justice processes are disproportionately at risk of becoming victims of abuse and violence.²⁵ Studies have shown that children housed with adults in jails or prisons are eight times more likely to commit suicide, five times more likely to be sexually assaulted, twice as likely to be beaten, and fifty percent more likely to be attacked with a weapon than children housed in juvenile facilities.²⁶ Other studies have concluded that juveniles sent to adult prisons are likely to become more violent than those kept in juvenile facilities.²⁷ It should be noted that CRC Article 19 sets forth that “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”²⁸ Given the likelihood for abuse, states which fail to separate juveniles from adults in penitentiaries are violating their international commitments.

²¹ Daniel R. Weinberger, *A Brain Too Young For Good Judgment*, N.Y. TIMES, Mar. 10, 2001, at A2.

²² *Id.*

²³ See HUMAN RIGHTS WATCH, *supra* note 11, at 47.

²⁴ *Cruel and Unusual Punishment: The Juvenile Death Penalty: Adolescence, Brain Development and Legal Culpability*, JUV. JUST. CENTER (A.B.A., Wash., D.C.) Jan. 2004, available at http://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_juvjus_Adolescence.authcheckdam.pdf

²⁵ See McCrea, *supra* note 9, at 15.

²⁶ *Id.*

²⁷ *Id.*

²⁸ See *supra* note 3, at Art. 19.

Children found to have infringed the law are often themselves more appropriately to be viewed as victims rather than as offenders based on the social contexts within which they are brought up.²⁹ In fact, studies have shown that almost seventy-seven percent of minors held in adult prisons represent racial minorities, while the vast majority of them come from low-income families with poorly-educated parents.³⁰ As a result, one important component of a juvenile's rehabilitation is ensuring that they be given access to education.³¹ The right of a child to secure an education is protected by the Articles 28 and 29 of the Convention on the Rights of the Child, as well as Article 13 of the Covenant on Economic, Social and Cultural Rights. In a 2009 report, Defence for Children International examined the national justice systems of several countries from Europe, Africa and Latin America and determined that youth who were deprived of their liberty were not provided access to education.³² If juvenile offenders do not receive an education, the justice system itself is in effect perpetuating a cycle of poverty and of criminal offending.

When systems of juvenile justice first developed in the early twentieth century, they were intended to put an end to what were said to be "unspeakable atrocities" committed against children housed in adult penitentiaries, and which ultimately lead juveniles to return to the streets as "hardened criminals."³³ The "thrust" of systems of juvenile justice is an emphasis on "rehabilitation, restoration and reintegration" rather than on retaliation, punishment or alienation.³⁴ They function on the basis of a belief that children who violate the law are not 'criminals,' but rather are people who "need special care, love, protection and treatment."³⁵

Yet, children who infringe the law are not simply in need of special protection; rather, they have the right to that protection.³⁶ These inherent rights create obligations on the part of states to protect. Pursuant to CRC Article 4, "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights

²⁹ Thomas Hammarberg, *A Juvenile Justice Approach Built on Human Rights Principles*, 8 YOUTH JUST. 193, 196 (Dec. 2008).

³⁰ See McCrea, *supra* note 9, at 16.

³¹ See Hammarberg, *supra* note 29, at 194.

³² BARBARA ROBINSON & JULIA D'ALOISIO, DEFENCE FOR CHILDREN INT'L, EDUCATION IN CHAINS: GAPS IN EDUCATION PROVISION TO CHILDREN IN DETENTION (2009), available at <http://www.defenceforchildren.org/files/gabriella/Education-in-Detention-EN.pdf>.

³³ VINCENT SCHIRALDI & JASON ZIEDENBERG, JUST. POLICY INST., THE RISKS JUVENILES FACE WHEN THEY ARE INCARCERATED WITH ADULTS (1997), available at http://www.justicepolicy.org/images/upload/97-02_REP_RiskJuvenilesFace_JJ.pdf.

³⁴ See KHATIWADA, *supra* note 2, at 20.

³⁵ *Id.*

³⁶ *Id.* at 21.

recognized in the present Convention.”³⁷ According to CRC Article 37, “States Parties shall ensure that . . . [e]very child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.”³⁸ Additionally, CRC Article 40 notes that “States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent . . . with the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.”³⁹ Yet despite these clear obligations to which the vast majority of states have consented to upholding, the fact of the matter is that children still remain subject to adult criminal procedures which undermine their rehabilitation and prevent them from reintegrating. As of 2012, over 1.1 million children were said to be deprived of their liberty by law enforcement officials.⁴⁰ In 2009, the International Juvenile Justice Observatory concluded that with respect to states and their compliance with their international obligations relating to juvenile justice, there was a tremendous gap between “theory” and “practice.”⁴¹ Even though the vast majority of states have ratified the CRC and in many cases have incorporated its requirements into their domestic law, there are several examples of states that have either failed to change juvenile justice policy in accordance with the CRC or simply do not enforce existing law.

In one prominent report issued by Defence for Children International examining the extent of the compliance of fifteen states with international human rights obligations with respect to juvenile justice, it was determined that while most states had instituted systems by which juveniles charged with crimes could receive special treatment by virtue of their age, a number of states were out of compliance with their obligations.⁴² For instance, in Bolivia, juveniles between the ages of sixteen and eighteen were treated as adults and processed through adult criminal justice systems.⁴³ In Costa Rica, juveniles between the ages of twelve and fifteen could be sentenced to up to ten years imprisonment, and those between fifteen and eighteen years old to as much as fifteen years imprisonment.⁴⁴ The Canadian justice system permitted a judge to sen-

³⁷ See *supra* note 3, at Art. 4.

³⁸ See *supra* note 3, at Art. 37.

³⁹ See *supra* note 3, at Art. 40.

⁴⁰ *About us*, INTERAGENCY PANEL ON JUV. JUST., <http://www.ipjj.org/about-us/ipjj/> (last visited Oct. 27, 2012).

⁴¹ *Legal Assistance for Children in Conflict with the Law: The Campaign, 2010*, INT’L JUV. JUST. OBSERVATORY, <http://www.oijj.org/legal/situation.php> (last visited Sept. 30, 2012).

⁴² “FROM LEGISLATION TO ACTION? TRENDS IN JUVENILE JUSTICE SYSTEMS ACROSS 15 COUNTRIES,” DEFENCE FOR CHILD. INT’L 13 (2007), available at <http://www.defenceforchildren.org/files/DCI-JJ-Report-2007-FINAL-VERSION-with-cover.pdf>.

⁴³ *Id.* at 14.

⁴⁴ *Id.*

tence a youth as young as fourteen years old as an adult.⁴⁵ In France, the minimum age of criminal responsibility was such that children as young as seven or eight years old could be held criminally responsible in practice.⁴⁶ In Argentina, judges were free to impose open-ended sentences of imprisonment upon minors.⁴⁷ In France and Albania, juveniles could be sentenced to lengthy terms of imprisonment, so long as the duration of the sentences were less than half of that which would be imposed upon an adult.⁴⁸ In Albania, Bolivia, Chile, France, Niger, Palestine, Sierra Leone, and Uganda, children were found to be housed side-by-side adults in penitentiaries.⁴⁹ These findings illuminate a significant gap between commitment and reality. Given the inconsistent record of state compliance with international legal obligations pertaining to juvenile justice, a human rights advocate seeking to strengthen juvenile protections must appeal to the moral sensitivities of policymakers and their electorates to reaffirm the basic principles of and basis for systems of juvenile justice.

Pursuant to CRC, Article 1, the protections afforded by the CRC apply to “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”⁵⁰ Although the convention provides for an exception for national law that varies from this standard, the language used in the convention indicates the presumption that juvenile protections are to be afforded to those under the age of eighteen. Additionally, a series of non-binding guidelines as well as commentary on the subject by UN bodies have made reference to the protections of the CRC as applying to all persons under the age of eighteen regardless of the exception clause. For instance, the 1990 United Nations Rules for the Protection of Juveniles Deprived of their Liberty defines a juvenile as “every person under the age of eighteen.”⁵¹ Additionally, a 2008 guidance note issued by the Secretary-General made mention of the CRC as applying to “all persons under the age of eighteen.”⁵² It is notable that in the United States, a country which has signed but has not ratified the CRC,⁵³ the jurisdictions of

⁴⁵ *Id.*

⁴⁶ *Id.* at 23.

⁴⁷ *Id.* at 34.

⁴⁸ *Id.* at 35–36.

⁴⁹ *Id.* at 42.

⁵⁰ *See supra* note 3, at Art. 1.

⁵¹ *See* U.N. Rules for the Protection of Juveniles Deprived of Their Liberty (The Havana Rules), *supra* note 1.

⁵² U.N. Secretary-General, *Guidance Note of the Secretary General: UN Approach to Justice for Children* (Sept. 2008), available at http://www.unrol.org/files/RoL_Guidance_Note_UN_Approach_Justice_for_Children_FINAL.pdf.

⁵³ *Convention on the Rights of the Child: Frequently asked questions*, THE U.N CHILDREN’S FUND, http://www.unicef.org/crc/index_30229.html (last visited Sept. 30, 2012).

New York and North Carolina continue to prosecute all sixteen and seventeen year olds as adults, regardless of the crime charged, and many others treat seventeen year olds as adults.⁵⁴ Despite that sixteen and seventeen year olds are not considered to have reached the “age of majority” in these jurisdictions in terms of their being able to enter into legally binding contracts, buy stocks, vote, buy or consume alcoholic beverages, or marry without parental consent, they are nonetheless treated as adults by the criminal justice system. Although the United States has not ratified the CRC, it is a signatory to it, and according to Article 18 of the Vienna Convention on the Law of Treaties, signatories to treaties are obligated to not do anything that “would defeat the object and purpose” of the treaty.⁵⁵ If the object and purpose of the CRC is deemed to provide special protection to all those who have yet to reach the age of majority, then it can be argued that the United States stands in violation of its obligations under international law as a signatory to the CRC.

Despite widespread support for international agreements calling for juvenile justice standards, a number of counterarguments have been presented by those who believe that juveniles should not be given what they see as special privileges upon their committing crimes. One such argument is that providing for a guarantee of leniency in advance of a juvenile committing a crime serves to undermine the deterrence effect that justice policy aims to achieve.⁵⁶ Those who support this argument note that juvenile justice systems frustrate society’s ability to express public outrage and anger toward the offender through penal sanction.⁵⁷ However, juvenile justice advocacy does not suggest or imply that juveniles who commit crimes should bear no responsibility for their actions; rather, it suggests that juveniles can take responsibility for their actions in the absence of formal criminal sanction.⁵⁸ Although juvenile justice policies recognize that juvenile offenders lack the mental capacity to render them capable of recognizing the difference between right and wrong at the time of the commission of a juvenile offense, juvenile justice systems do in fact seek to hold the juvenile responsible for his or her actions by operating to educate the youth of the wrongfulness of his

⁵⁴ Mosi Secret, *States Prosecute Fewer Teenagers in Adult Courts*, N.Y. TIMES, Mar. 6, 2011, at A1.

⁵⁵ Curtis A. Bradley, *The Juvenile Death Penalty and International Law*, 52 DUKE L.J. 485, 513 (2002).

⁵⁶ Mary Onelia Estudillo, *Juveniles Should Be Tried As Adults in Certain Circumstances*, in SHOULD JUVENILES BE TRIED AS ADULTS? 17, 19 (Christine Watkins ed., 2008).

⁵⁷ Danielle R. Oddo, *Removing Confidentiality Protections and the "Get Tough" Rhetoric: What Has Gone Wrong with the Juvenile Justice System?*, 18 B.C. THIRD WORLD L.J. 105, 125 (Jan. 1998).

⁵⁸ See Hammarberg, *supra* note 29, at 195.

or her misdeeds.⁵⁹ It should also be noted that despite popular perceptions, the vast majority of children who are detained are not serious, hardened criminals, but are rather imprisoned for so-called “status offenses” resulting from actions which if committed by an adult would not even be considered an offense, such as vagrancy, begging, smoking, dropping out of school, or using alcohol.⁶⁰ Many are also imprisoned for immigration-related offenses, or are sent to jail simply to remain with their incarcerated parents.⁶¹

Opponents of juvenile justice systems further argue that juveniles commit a large proportion of crimes in society and that juvenile delinquency on the whole is increasing; ultimately, they view imprisonment as the only punishment truly capable of reforming a juvenile offender and protecting society as a whole.⁶² As evidence, they point to countries in Central and Eastern Europe, where juvenile crime rose significantly in response to the onset of democratic transitions in the 1990s and the attendant establishment of juvenile justice protections.⁶³ Yet, it should be noted that in most of Europe, offenses committed by juveniles comprise a relatively small proportion of reported offenses.⁶⁴ Additionally, it is widely claimed that the vast majority of juveniles who are imprisoned are held for non-violent offenses.⁶⁵

Others have noted that it is nearly impossible to obtain accurate year-to-year statistical data on juvenile offending rates, as such information, which can be calculated variably based on reported crimes, formal arrests or charges being brought, sentences handed down, or actual convictions, is subject to political manipulation.⁶⁶ They claim that relatively more precise independent studies have shown that juveniles who are sent to adult prisons are twice as likely to be re-arrested for a more serious crime when compared to minors who are adjudicated by juvenile justice systems.⁶⁷ One such study was conducted in the United States found that in examining offense patterns in the early 1990s in response to the enactment of harsher juvenile justice policies, juveniles processed as adults were found to be thirty-four percent more likely of being re-arrested for a felony when compared to their juvenile-processed coun-

⁵⁹ *Id.*

⁶⁰ *Child Protection from Violence, Exploitation and Abuse*, UNICEF, http://www.unicef.org/protection/57929_57999.html (last visited Oct. 27, 2012).

⁶¹ *See* Defence, Education, *supra* note 32.

⁶² *See* Hammarberg, *supra* note 29, at 194.

⁶³ UNICEF, *Juvenile Justice*, 3 INNOCENTI DIGEST (Jan. 1998), available at <http://www.unicef-irc.org/publications/pdf/digest3e.pdf> [hereinafter “Children’s Fund Innocenti”].

⁶⁴ *See* Defence, Education, *supra* note 32.

⁶⁵ *See* Hammarberg, *supra* note 29, at 194.

⁶⁶ *See* McCrea, *supra* note 9, at 15.

⁶⁷ *See* Children’s Fund Innocenti, *supra* note 63.

⁶⁷ *See* McCrea, *supra* note 9, at 15.

terparts.⁶⁸ Based on these findings, the ends of protecting society are best met by adjudicating juvenile offenders in systems of juvenile justice.

The forgoing analysis has suggested that criminal justice responses to juvenile delinquency are a testament to our failure as a global society to provide for the proper development of young people. Often times, juvenile offenders come from disadvantaged backgrounds and are alienated from mainstream society even before being subjected to the justice system.⁶⁹ Adjudicating juveniles who commit crimes in accordance with adult criminal justice processes only serves to further stigmatize them and hamper their chances for rehabilitation and reintegration. Those who are sent to adult prisons are often targets for abuse,⁷⁰ and they have been shown to become more violent and more likely to reoffend upon their release.⁷¹ Additionally, prominent scholars in the fields of psychology and neuroscience believe that juveniles are psychologically and physiologically distinct from their adult counterparts by virtue of their age, and believe that juveniles cannot be judged according to the same standards for their behaviors as compared to adults.⁷² The international community has recognized the need for special and separate systems of juvenile justice through a number of international agreements, including most notably the Convention on the Rights of Child.⁷³ Through international human rights law, states have obliged themselves to provide juveniles with certain protections when they are charged with having committed a crime.⁷⁴ Yet, despite such commitments, studies have shown that many countries have failed to fully implement their obligations pertaining to juvenile justice.⁷⁵ In creating a safer global community, we must acknowledge that juveniles who are accused of crimes are entitled to certain human rights by virtue of their age, and we all must come to understand the important and necessary role that systems of juvenile justice play in a civilized world.

⁶⁸ Robert E. Pierre, *Adult System Worsens Juvenile Recidivism, Report Says*, WASH. POST, Nov. 30, 2007, at A14.

⁶⁹ See *supra* notes 29–30.

⁷⁰ See *supra* notes 25–27.

⁷¹ See *supra* notes 67–68.

⁷² See *supra* notes 8–24.

⁷³ See *supra* note 3.

⁷⁴ See *supra* notes 36–39, 50–52.

⁷⁵ See *supra* notes 40–49.