


Chapter 13

Reframing Juvenile Justice Through a Human Rights Lens: Kenya and the U.S. Case Studies

Simeon P. Sungi

 <https://orcid.org/0000-0003-4172-6222>

United States International University-Africa, Kenya

ABSTRACT

This chapter explores the reframing of juvenile justice through a human rights lens, using Kenya and the United States as comparative case studies. Both nations offer contrasting yet insightful approaches to juvenile justice, shaped by their legal frameworks and socio-political contexts. Kenya, as a signatory to key international treaties like the UN Convention on the Rights of the Child, emphasizes rehabilitation and diversion in its juvenile justice system. Conversely, the U.S., with its decentralized and punitive-focused approach, grapples with systemic issues such as racial disparities, the transfer of juveniles to adult courts, and over-incarceration. Through a comparative analysis, this chapter examines how each country's juvenile justice system aligns with or diverges from international human rights norms, highlighting implementation challenges, including resource constraints in Kenya and racial disparities in the U.S. The chapter underscores the need for reforms that prioritize the rights, dignity, and rehabilitation of young offenders globally.

DOI: 10.4018/978-1-6684-9343-4.ch013

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1. INTRODUCTION

Juvenile justice systems around the world are faced with the difficult task of balancing public safety, the welfare of young offenders, and broader societal goals of justice and rehabilitation. Historically, many of these systems have leaned toward punitive measures, often treating juveniles in ways similar to adult offenders. However, in recent decades, there has been a growing recognition that children in conflict with the law are fundamentally different from adults in terms of their development, psychological maturity, and capacity for rehabilitation. This shift in thinking is encapsulated in the increasing emphasis on applying a human rights framework to juvenile justice, which centers on protecting children's rights, rehabilitation, and social reintegration over punishment.

This chapter, *Reframing Juvenile Justice through a Human Rights Lens: Kenya and the U.S. Case Studies*, delves into the evolving landscape of juvenile justice by focusing on two nations—Kenya and the United States. Despite their stark differences in history, culture, and legal systems, these countries provide rich comparative insights into how juvenile justice is approached, implemented, and aligned with international human rights standards. Both jurisdictions face unique challenges in the administration of juvenile justice. However, they aim to create systems prioritizing protecting and rehabilitating children while addressing crime and societal safety.

1.1 The Human Rights Framework for Juvenile Justice

The human rights framework for juvenile justice is grounded in the principles of child protection as outlined in critical international instruments such as the *United Nations Convention on the Rights of the Child* (UNCRC), the *Beijing Rules*, the *Havana Rules*, and the *African Charter on the Rights and Welfare of the Child* (ACRWC). These documents emphasize that children require special protection due to their vulnerability and developmental differences. Their involvement in criminal activities should be met with measures that promote their dignity, well-being, and social reintegration rather than punitive or harsh treatment (United Nations, 1989).

The UNCRC, in particular, is the cornerstone of international efforts to protect children's rights. It highlights vital principles such as the child's best interests, non-discrimination, and the right to be heard, all of which must be central considerations in any juvenile justice system. The convention calls for using detention only as a last resort and encourages states to develop systems that offer alternatives to incarceration, focusing on rehabilitation and reintegration into society. Despite these clear international standards, applying these principles varies widely between countries, shaped by legal traditions, resource availability, and social attitudes toward youth crime.

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