
By A.D. Viccica*

I. Universal normative system and standard-setting relating to children’s rights and juvenile justice

International recognition of the notion and the realization of children’s rights are relatively modern developments. It took a long time for the evolution of the autonomous rights, status, standing and role of children to take place. But the successful outcome of this process is reflected in the legislative pronouncements of the world organization, which presently constitutes a universal normative system governing the promotion and protection of the well-being and interests of children and justice for the young.

There is an impressive list of normative accomplishments at the international level. From 1975 until present marks a period of relatively intensive activity, serving purposes of enlightenment, awareness-raising, solidarity and mobilization of those concerned toward the achievement of common goals on behalf of young generations – full equality, participation and rights vis-a-vis law, justice systems and social institutions. These efforts and activities continue to revolutionize perspectives, sparking important and lasting advancement in various fields.

The International Year of the Child in 1979 shed light on the plight of the world’s children, pole-vaulting their status. International Youth Year (IYY) in 1985 focused on the situation of “youth” and ways of promoting their full partnership in society. While the United Nations Declaration on the Rights of the Child of 1959 provided the world community with the first ‘manifesto’ of children’s rights, the United Nations Draft Convention on the Rights of the Child will soon serve as a first ‘blueprint’ of steps to be taken on behalf of the world’s children.1

In the International Women’s Year in 1975 and the United Nations Decade for Women: Equality, Development and Peace, 1976-1985, also contributed to this process. They charted an international course for female ‘liberation’ from gender-bias and gender-based subordination.

Standard-setting in the juvenile justice field

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, “The Beijing Rules”,2 designated after the City of Beijing,3 figure

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prominently in the normative system, as the first international instrument in the juvenile justice field, protecting the rights of young persons in conflict with the law within the framework of a separate and specialized system of juvenile justice.

Presently, many countries are committed to the spirit and are actively pursuing the aims and letter of the Beijing Rules, which, in the short time since their adoption in 1985, already have had significant influence on the profiles and operations of justice systems around the world.6, 5

It is envisaged that the two newly emerging, complementary instruments in the juvenile justice field6 will have comparable impact. The proposed United Nations Draft Standards for the Prevention of Juvenile Delinquency, “The Guidelines of Riyadh”, bearing the name of the City of Riyadh,7 represent a new philosophical orientation, theoretical concept, model approach and practical design for delinquency prevention. This document, the first of its kind at the international level, is already making significant inroads into the delinquency ‘dilemma’. The proposed United Nations Draft Rules for the Protection of Juveniles Deprived of Their Liberty, “The JDL’s”, touch upon the problems of and install safeguards for young persons in all deprivation-of-liberty-situations.

The policy maxims of this composite set of existing and emerging standards would constitute an international yardstick of protective measures for the young through juvenile justice administration. Moreover, together they reflect a progressive and enlightened policy perspective, desirable contemporary approach and international notion of juvenile justice, with its child-centered orientation, covering a full range of key issues affecting young persons. These include “social risk” intervention, early ‘delinquency’ prevention, social control, socialization processes, labelling, child victimization, youthful offending and delinquency phenomenology, youth “in conflict” and “in trouble”, child detention, young offender ‘treatment’ and re-integration.8

The Beijing Rules govern the treatment, handling and processing of young persons who come in conflict with the law, at all levels and stages. They are system reactive to the individual and to the act (violation). The Rule’s provisions extend protection to cover: a “juvenile offender”, “a child or young person who is alleged to have committed or who has been found to have committed an offence” (2.2 (c)); an ‘offence”, “any behaviour (act or omission) that is punishable by law under the respective legal systems” (2.2 (b)); a juvenile “who may be proceeded against for any specific behavior that would not be punishable if committed by an adult”, (3.1), which includes status offences; “all juveniles who are dealt with in welfare and care proceedings” (3.2); as well as “young adult offenders” (3.3).

The Riyadh Guidelines precede the Beijing Rules. Without the prevention of delinquency, one of the fundamental goals of the Rules, to minimize official intervention, cannot be materialized.

The Guidelines are proactive to the first violation, that is youthful offending in the very first instance - preventing delinquency at the ‘pre-conflict stage’. Thus, they aim to reduce opportunity for, as well as offset and minimize circumstances and conditions which heighten youth vulnerability to, crime, victimization, ‘entrappment’ in irregular situations and the need for official sanctioning, and to foster an environment conducive to healthy development, inte-