

BEYOND BORDERS: A COMPARATIVE AND INTERNATIONAL OUTLOOK ON JUVENILE DELINQUENCY

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1. INTRODUCTION

Juvenile delinquency is a global issue that extends far beyond the borders of India, reaching a widespread concern across nations. In response to this challenge, various countries have enacted legislation to address and reduce juvenile delinquency. With the advent of globalization, international connectivity has grown exponentially, not just through air travel but also through the internet and social media platforms. Today, people from different corners of the world, such as India and the United States, can interact seamlessly. Despite this interconnectedness, the rates of juvenile delinquency vary significantly across nations, making it challenging to gauge the precise global impact of this issue.

Historically, the League of Nations and the United Nations have taken measures to tackle juvenile delinquency, although many of these initiatives were non-binding recommendations rather than enforceable laws. India ratified the United Nations Convention on the Rights of the Child in 1992, underscoring its commitment to child rights. Numerous international treaties and conventions aimed at safeguarding children's welfare were established, such as the Declaration of the Rights of the Child (1924), the Geneva Convention (1949), the United Nations Declaration of the Rights of the Child (1959), the International Covenant on Civil and

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Political Rights (1966), and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), among others.³

In 1979, UNESCO declared the year as the International Year of the Child with two primary goals:

1. To advocate for children's needs and raise awareness about the importance of providing special care and attention through law and policy.
2. To integrate children's development programs into broader economic and social development plans to ensure sustained long-term benefits for children both at the national and international levels.⁴

Globally, there is a consensus on recognizing the rights of children accused of violating penal laws. These rights are designed to promote dignity and self-worth, as well as an understanding of other people's rights and freedoms. The aim is to help juvenile offenders mature into responsible adults who contribute positively to society.

The well-being of a nation is closely tied to the welfare of its children, who are the most vulnerable members of society. Children need special care and protection, ensuring they grow up to be productive members of society. A nation's future is often a reflection of how it treats its young citizens, and it can be predicted based on the measures in place to protect and nurture them. Failure to properly address juvenile delinquency, or the lack of adequate steps to safeguard children, can have detrimental long-term effects, both for individuals and for the country as a whole.

The World Youth Report (2003) highlighted a troubling rise in the number of children facing difficult circumstances, with figures increasing from 80 million to 150 million between 1992 and 2000. This alarming trend emphasizes the urgent need for effective global measures to tackle juvenile delinquency. The future of the planet depends on the efforts to address this issue, and it is the responsibility of every nation to act decisively to prevent further harm.⁵

³ Katharina Neissl and Simon S. Singer, "Juvenile Delinquency in an International Context" Oxford Research Encyclopedia of Criminology and Criminal Justice (Oxford University Press, 2020).

⁴ John Winterdyk, *Juvenile Justice Systems: International Perspectives* (Canadian Scholars' Press, 2002).

⁵ Beata Gruszczyńska, Sonia Lucia and Martin Killias, "Juvenile Victimization from an International Perspective" *The Many Faces of Youth Crime* 95–116 (Springer New York, New York, NY, 2011).

2. INTERNATIONAL CONVENTIONS

The United Nations has adopted numerous agreements and established frameworks to ensure the effective administration of juvenile justice at the global level. These international conventions and frameworks act as key reference points for professionals and practitioners working in the field of child justice. They provide valuable guidance for developing effective interventions and strategies aimed at addressing juvenile delinquency and promoting the well-being of children. This chapter will explore the major international instruments developed by the United Nations that focus on juvenile justice, child policies, and programs. These instruments cover a range of critical issues such as the rights of children to survival, development, and education, as well as specific guidelines related to juvenile delinquency.⁶

The following international instruments are discussed in this context:

2.1. GENEVA DECLARATION OF THE RIGHTS OF THE CHILD, 1924

The Geneva Declaration of the Rights of the Child, adopted in 1924, marked a pivotal moment in recognizing the inherent rights of children and outlining the responsibilities of adults and the state towards ensuring the welfare of minors. In the aftermath of World War I, the devastating impact on children worldwide highlighted the urgent need for special care and protection. This declaration acknowledged the fundamental rights of children, emphasizing their entitlement to development, assistance, relief, and protection.

The Declaration outlined five key principles that directly addressed the needs of children:

- **Basic Needs:** Children suffering from hunger should be provided with nourishment; those who are ill must receive proper medical care; children facing developmental challenges should be offered assistance, and delinquent children must be rehabilitated. Furthermore, children who are destitute should be given shelter.
- **Opportunities for Development:** Every child must be given the opportunity to develop both mentally and physically, ensuring a balanced and healthy growth.
- **Priority During National Distress:** In times of national crisis or distress, children must be given priority when aid is provided, recognizing their vulnerability and need for protection.

⁶ Josine Junger-Tas, Denis Ribeaud and Maarten J. L. F. Cruyff, "Juvenile Delinquency and Gender," 1 European Journal of Criminology 333–75 (2004).

- **Rehabilitation of Delinquent Children:** Delinquent children should be trained and rehabilitated so they can acquire the skills necessary to earn a livelihood, thus facilitating their reintegration into society.
- **Environment for Growth:** Children must be raised in an environment that nurtures their talents and directs them toward contributing positively to the service of their nation, helping to shape them into responsible and productive citizens.

Through these provisions, the Geneva Declaration underscored the importance of safeguarding children's rights, ensuring that they are not only protected but also given the means and opportunities to grow, thrive, and contribute to society.

2.2 UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948)

The Universal Declaration of Human Rights (UDHR) asserts that everyone is entitled to the rights and freedoms outlined in the document, without discrimination of any kind, including distinctions based on race, color, sex, language, religion, political opinion, national origin, social status, property, birth, or any other characteristic. It also stresses that no distinctions should be made based on the political, jurisdictional, or international status of a person's country or territory, whether independent, under trusteeship, non-self-governing, or subjected to any limitations of sovereignty.

This principle ensures that all people, regardless of their age, socioeconomic status, gender, or nationality, are entitled to the rights specified in the UDHR. This includes juvenile delinquents, who must be treated equally in terms of their human rights.

Another crucial article of the UDHR states: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms."

This provision indirectly highlights that juvenile delinquents should not be treated as slaves. It reminds us that children are the future of any nation, and as such, they require special care and protection from any form of exploitation, including in the justice system.⁷

Furthermore, the UDHR includes the right to an adequate standard of living for all individuals, including access to food, clothing, housing, medical care, and necessary social services. It also

⁷ Janet P. Stamatel, "Juvenile Delinquency and Juvenile Justice" *Examining Crime and Justice around the World* 67–100 (2020).

emphasizes security in situations like unemployment, sickness, disability, widowhood, old age, or other circumstances beyond one's control. Additionally, it specifies that motherhood and childhood are entitled to special care and protection, and all children, regardless of their parents' marital status, should enjoy equal social protection.

This article asserts that all individuals, including children, have the right to a standard of living that ensures their health and well-being. This includes juvenile delinquents, who, due to their developmental stage, require proper guidance and support. Through adequate training, education, and care, these young individuals can be reintegrated into society as responsible citizens. They can also learn skills that allow them to support themselves and their families, reducing the likelihood of reoffending. This article further highlights the importance of protecting children and mothers from all forms of exploitation, ensuring they have the opportunity to lead healthy and fulfilling lives.⁸

2.3. UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (1989)

The United Nations Convention on the Rights of the Child (UNCRC) was adopted on November 20, 1989, and ratified by India on December 11, 1992. It is a pivotal international document that outlines the rights of children and sets out the obligations of governments to protect and uphold these rights. The UNCRC consists of 54 articles, each addressing various aspects of children's lives, including survival, protection, development, and participation. This Convention is the foundational framework for UNICEF's work and has been widely ratified by nations across the globe, making it the most endorsed international convention in history.

Key Articles and Provisions:

- **Article 2 - Non-Discrimination:** States parties must ensure that children's rights are respected and upheld without discrimination based on race, color, sex, language, religion, or other status. This principle emphasizes the importance of treating all children equally, regardless of their or their family's background. Additionally, the Convention stresses that children with disabilities need specific support to achieve their full potential.

⁸ Administrator, "International Perspectives on Juvenile Justice - iResearchNet" Criminal Justice, 2024 available at: <https://criminal-justice.iresearchnet.com/criminal-justice-process/juvenile-justice-process/international-perspectives-on-juvenile-justice/>.

- Article 19 - Protection from Abuse and Exploitation: This article mandates that governments take all necessary actions to protect children from physical and mental violence, abuse, neglect, or exploitation, including sexual abuse. States are required to enact laws and provide assistance to safeguard vulnerable children and to address cases of abuse and neglect promptly.
- Article 37 - Protection from Cruelty and Arbitrary Detention: The Convention prohibits the torture, cruel, inhuman, or degrading treatment of children. It also forbids the imposition of capital punishment or life imprisonment without the possibility of parole for crimes committed by minors. Children deprived of their liberty must be treated with respect for their dignity and must be separated from adult offenders unless it is deemed contrary to the best interests of the child. Furthermore, children in detention have the right to family contact, legal assistance, and the ability to challenge their detention in a court of law.
- Article 40 - Juvenile Justice: Article 40 outlines the rights of children accused of infringing the law. It emphasizes the need for a justice system that treats children with dignity, reinforces their respect for human rights, and aims to reintegrate them into society. Key provisions include the right to be presumed innocent, the right to legal representation, and the right to a fair trial. The article also encourages alternatives to judicial proceedings, such as diversion programs, where appropriate, to prevent the criminalization of children whenever possible.

The UNCRC establishes a comprehensive framework to protect children's rights and provides detailed guidelines for states to follow in their national legal systems. The Convention highlights the importance of creating a supportive environment for children's growth and development, ensuring they live free from violence, discrimination, and exploitation.⁹

2.4. THE UNITED NATIONS RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY, 1990.

Adopted by the UN General Assembly on December 14, 1990, these rules are designed to safeguard the rights of juveniles under the age of 18 who are deprived of their liberty. While

⁹ Mark C. Stafford, "Juvenile Delinquency" Handbook of Social Problems: A Comparative International Perspective 480–93 (SAGE Publications, Inc., 2455 Teller Road, Thousand Oaks California 91320 United States , 2004).

these rules are non-binding and serve as recommendations, they play a crucial role in shaping juvenile justice systems globally. The guidelines apply not only to juvenile delinquents but also to children deprived of their liberty for reasons related to health or other circumstances.

These rules establish high standards for human rights, both during the arrest process and while the individual is in custody, ensuring the dignity of children in detention. They are made accessible to justice workers in the local languages of their countries, promoting a clear understanding of these standards. The rules also encourage states to integrate them into national legislation, periodically reviewing and updating their legal frameworks to meet societal needs.¹⁰

Key Provisions:

- **Presumption of Innocence and Pre-Trial Detention (Rule 17):** Juveniles detained for trial are presumed innocent and should not be treated as criminals. Detention before trial should be avoided whenever possible, and used only in exceptional circumstances. Alternative measures, such as community-based interventions, should be prioritized to avoid unnecessary detention. If preventive detention is used, juvenile courts and investigative bodies are urged to expedite the processing of these cases, ensuring the shortest possible detention period. Furthermore, untried juveniles should be kept separate from convicted juveniles to prevent negative influence.¹¹
- **Right to Education (Rule 38):** Juveniles of compulsory school age have the right to an education that suits their needs and prepares them for reintegration into society. Whenever possible, education should be provided outside the detention facility in community schools, ensuring seamless continuation of education after release. In cases where this is not feasible, education within the facility should be provided by qualified teachers, in line with the national education system. Special attention must be given to juveniles from foreign backgrounds or those with specific cultural or ethnic needs. Those facing literacy or cognitive challenges should receive tailored educational support to address their difficulties.

¹⁰ Tom D. Kennedy, David Detullio and Danielle H. Millen, “Theories of Juvenile Delinquency” SpringerBriefs in Psychology 1–32 (Springer International Publishing, Cham, 2020).

¹¹ Geraldine Van Bueren, *The International Law on the Rights of the Child* (Martinus Nijhoff Publishers, 2021).

These rules emphasize the importance of creating a supportive environment for juveniles deprived of their liberty, focusing on rehabilitation rather than punishment. Efforts to reduce detention and ensure access to education are key elements in promoting the reintegration of juveniles into society.

2.5. UN MINIMUM RULES FOR THE ADMINISTRATION OF JUVENILE JUSTICE: THE BEIJING RULES (1985)

The Beijing Rules, established by the United Nations General Assembly in 1985, provide a comprehensive set of guidelines for juvenile justice systems, focusing on the protection and rehabilitation of young offenders rather than punishment. The rules emphasize diversion, which involves steering juveniles away from formal criminal justice proceedings to prevent the long-term negative effects of criminal labeling. The aim is to limit a child's interaction with the justice system, as involvement can exacerbate criminal behavior. When detention is required, it should be a last resort and for the shortest duration, prioritizing rehabilitation over punishment. The welfare of the child is paramount, with actions against juvenile offenders taking into account their personal situations, including their mental, emotional, and social circumstances, such as family background and economic status. The presumption of innocence is a fundamental principle, ensuring that a juvenile is considered innocent until proven guilty. The juvenile must also be allowed to express themselves during legal proceedings. The goal of rehabilitation is emphasized, with institutionalization aiming to help the child reintegrate as a law-abiding member of society. The rules stress the need to consider the family and social context of the juvenile when determining appropriate responses. The minimum age of criminal responsibility should not be set too low, ensuring that children have the mental and emotional maturity to understand the implications of their actions.¹² The principle of proportionality is vital, ensuring that responses to juvenile crimes are appropriate to both the offense and the juvenile's circumstances. Juveniles are guaranteed fair trial rights, including the right to counsel, the right to remain silent, and the right to appeal decisions. Privacy is another crucial right, protecting juveniles from harmful public exposure that could impede their rehabilitation. The rules encourage handling juvenile cases informally whenever possible, allowing authorities to resolve cases outside the formal court system. If detention before trial is necessary, juveniles must be kept separate from adults to prevent negative influences, and they

¹² Josine Junger-Tas and Scott H. Decker, *International Handbook of Juvenile Justice* (Springer, 2014).

must receive appropriate care, protection, and rehabilitative services. The rules also stress that penalties must be proportional to both the offense and the juvenile's individual circumstances, with capital and corporal punishment strictly prohibited. Juveniles should not face extreme penalties due to their underdeveloped decision-making capacities. Additionally, authorities have the discretion to discontinue proceedings at any time, providing flexibility to address the needs of the juvenile effectively. Ultimately, the Beijing Rules aim to create a juvenile justice system that prioritizes rehabilitation, fairness, and the overall well-being of the child.¹³

2.6. THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS, 1966

The International Covenant on Economic, Social, and Cultural Rights, 1966, emphasizes the need for specific measures to protect and assist all children and young people, ensuring that these protections are provided without any discrimination based on factors such as parentage or other circumstances. It stresses the importance of shielding children and young individuals from economic and social exploitation. Any employment that poses a threat to their health, morals, or safety, or that could hinder their normal development, should be prohibited by law. Additionally, the covenant calls for the establishment of age limits below which child labor should not be permitted, and for such offenses to be punishable by law. This provision mandates that governments introduce necessary legal amendments to guarantee that children and young individuals, regardless of their social or economic background, are given equal protection and support.

2.7. THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966

The International Covenant on Civil and Political Rights, 1966, ensures that all individuals deprived of their liberty are treated with humanity and respect for their inherent dignity. It specifies that, except in exceptional cases, those accused of a crime should be separated from convicted individuals and given treatment suitable for their status as unconvicted persons. Moreover, juveniles who are accused must be kept apart from adults and should be brought to trial as quickly as possible. The primary goal of the penitentiary system is to focus on the

¹³ Paramjit Singh Jamir Singh and Azlinda Azman, "Dealing with Juvenile Delinquency: Integrated Social Work Approach," 5 Asian Social Work Journal 32–43 (2020).

reform and rehabilitation of prisoners. Juvenile offenders must be kept separate from adults and treated in a manner that reflects their age and legal status.

This article highlights the importance of treating detainees humanely, ensuring that juveniles are not mixed with adult criminals. It stresses that the primary goal of the judicial process for juveniles is rehabilitation, not punishment, and their trials should be completed swiftly to facilitate their reintegration into society. Furthermore, the legal procedures involving juveniles should be tailored to their age and the need for their rehabilitation. The article also emphasizes that any judgments related to juveniles should not be made public in order to protect their future.¹⁴

Additionally, the article underlines that individuals under eighteen should not face the death penalty for any offense they commit, and such punishment should not apply to pregnant women. This provision reflects the understanding that juveniles should not be treated the same as adults due to their developmental stage, and the focus should be on reform rather than punitive measures. Lastly, the article ensures that no one is subjected to torture, cruel, inhuman, or degrading treatment or punishment, and specifically prohibits medical or scientific experimentation without consent. This mandates that the prosecution must demonstrate more than just the accused's state of mind when dealing with juvenile offenders, ensuring that they are not subjected to inhumane treatment during their incarceration.¹⁵

2.8. THE UNITED NATIONS RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY, 1990

The UN Rules for the Protection of Juveniles Deprived of their Liberty, adopted by the UN General Assembly on December 14, 1990, are a set of guidelines designed to protect the rights of juveniles under the age of 18 who are deprived of their liberty. While these rules are not legally binding, they are highly significant and serve as recommendations for the states to follow. These guidelines are important not only for juvenile delinquents but also for children who may be deprived of their liberty for reasons related to health or other circumstances. The rules ensure high standards of human rights both during the arrest and while the juvenile is held

¹⁴ Ibid at 132

¹⁵ Shipra Lavania, *Juvenile Delinquency*, 1993.

in an institution. They aim to provide clear, accessible standards to justice workers, which should be made available in the local language of each country. The rules further recommend that states adopt these standards into their national laws and review and amend them regularly to keep up with societal needs.¹⁶

One of the key principles in Rule 17 of these guidelines is that juveniles who are untried or detained awaiting trial should be presumed innocent and treated accordingly. Detention before trial should be minimized, with emphasis on alternative measures, and should only be used in exceptional cases. If preventive detention is necessary, it should be as brief as possible, with efforts made to expedite processing to reduce the duration of detention. Furthermore, juveniles awaiting trial must be kept separate from those who have been convicted.¹⁷

The right to education is another crucial aspect addressed in these rules, particularly in Rule 38. Every juvenile of compulsory school age has the right to an education that caters to their needs and abilities, preparing them for reintegration into society. Whenever possible, education should take place outside of detention facilities in community schools, and it should be conducted by qualified teachers as part of the country's education system to ensure continuity after the juvenile's release. Special attention must be given to juveniles from foreign, ethnic, or cultural backgrounds, and those who are illiterate or have learning difficulties should receive special educational support. To address these educational barriers, the establishment of special pre-trial detention centers is recommended, especially for juveniles at risk of having their education interrupted due to language barriers or short periods of detention.

2.9. THE UNITED NATIONS GUIDELINES FOR THE PREVENTION OF JUVENILE DELINQUENCY, 1990

The United Nations Guidelines for the Prevention of Juvenile Delinquency, also known as the Riyadh Guidelines, were adopted by the General Assembly through resolution 45/112 on December 14, 1990. These guidelines were named after the city of Riyadh, where the meeting to adopt them took place. They provide a proactive approach to preventing juvenile delinquency by offering detailed social and economic strategies that cover various societal aspects, including the family unit, schools, media, policies, laws, and juvenile justice

¹⁶ "Juvenile Delinquency," SpringerReference (Springer-Verlag, Berlin/Heidelberg).

¹⁷ Henry W. Thurston, "Concerning Juvenile Delinquency" (1942).

administration. The guidelines aim not only to protect children from harmful situations but also to promote their overall well-being, ensuring their holistic development. They emphasize that society must intervene in addressing juvenile delinquency, and that the formal justice system should only be used as a last resort. The guidelines call for the coordination between government and non-government agencies at all levels, and advocate for regular evaluation and amendment of prevention plans when necessary. Additionally, they encourage youth involvement in the prevention process and stress the importance of caring for vulnerable children at risk of delinquency. They also highlight the need to address status offenses.¹⁸

Guideline 10 of the Riyadh Guidelines suggests that efforts should be made to promote preventive policies that facilitate the successful social integration of children and young people, particularly through family support, community involvement, peer groups, schools, vocational training, and volunteer organizations. These efforts should respect the personal development of children and ensure they are treated as equal participants in the socialization process.

The Riyadh Guidelines present a comprehensive, proactive approach to preventing juvenile delinquency and reflect an awareness that children are entitled to respect and care as human beings. This attitude, prevalent in Western countries in the 20th century, underscores the importance of social justice for children. The guidelines envision a broad approach to addressing juvenile delinquency and strongly advocate for laws that promote the rights and welfare of young people. Legislation should aim to prevent suffering, abuse, and ill-treatment, providing children with opportunities for a better future.

Guideline 46 of the Riyadh Guidelines stresses that institutionalization of a young person should only be used as a last resort and for the shortest period necessary. The best interests of the child must always be the top priority. The guidelines establish clear criteria for formal intervention, which should be limited to situations where: (a) the child has been harmed by their parents or guardians, (b) the child has been sexually, physically, or emotionally abused, (c) the child has been neglected or exploited, (d) the child faces physical or moral danger due to their guardians' behavior, or (e) the child is at serious physical or psychological risk due to their own actions, and neither the parents nor community services can address the danger

¹⁸ Marvin D. Krohn and Jodi Lane, *The Handbook of Juvenile Delinquency and Juvenile Justice* (John Wiley & Sons, 2015).

without institutionalization. Member states are encouraged to pass legislation that protects children from issues like drug abuse and sexual harassment.¹⁹

2.10. UNITED NATIONS RESOLUTION ON ADMINISTRATION OF JUVENILE JUSTICE (THE VIENNA GUIDELINES) 1997

The United Nations Resolution on the Administration of Juvenile Justice, also known as the Vienna Guidelines, was adopted in February 1997. This resolution provides an outline based on information gathered from various governments regarding their approach to administering juvenile justice. It highlights how different nations incorporate provisions into their national legislation and constitutions to apply international rules, conventions, and guidelines that have been suggested over time for the proper functioning of juvenile justice systems. The guidelines were established by experts during a meeting held in Vienna in 1997. This document outlines a comprehensive set of measures that should be implemented by respective states to ensure their juvenile justice systems operate effectively and in alignment with internationally adopted conventions.

2.11. UNITED NATION TEN POINT PLAN FOR JUVENILE JUSTICE 2000

On 22nd September 2000, a committee was formed to address the rights of the child and held a discussion focusing on violence against children. The committee's discussions led to a plan aimed at reducing violence against juveniles within the justice system globally. It emphasized the need for alternative justice systems to adopt measures that prevent harm to children. The key points outlined in the guidelines are as follows:

- Arrest duration: Arrest should be limited to the shortest possible time, with a maximum of 48 hours for juvenile delinquents.
- Age of criminal responsibility: Each country should define a minimum age for criminal responsibility, ensuring that children below this age cannot be held criminally accountable.
- Alternative measures: Warnings and admonitions should be considered as alternatives to harsh punishments when dealing with juveniles.

¹⁹ “Juvenile Delinquency: A Radical Approach,” 11 Juvenile Court Judges Journal 34–8 (1960).

- Specialized juvenile courts: Countries should establish specialized courts to handle cases involving children under 18 years of age, ensuring that they are prosecuted in appropriate settings.
- Family contact: Juvenile delinquents should be allowed to maintain regular contact with their families during the judicial process.

2.12. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHT OF THE CHILD

On May 25, 2000, the United Nations adopted three important treaties in New York, which are collectively known as the Optional Protocols to the Convention on the Rights of the Child. These include:

1. Optional Protocol on the involvement of children in armed conflict
2. Optional Protocol on the sale of children, child prostitution, and child pornography
3. Optional Protocol on the rights of the child concerning a communication procedure

The First Protocol establishes that no individual under the age of 18 should be compulsorily enlisted in armed conflicts or forces. The Second Protocol, adopted on January 18, 2002, focuses on protecting children from trafficking, child prostitution, and child pornography, and sets out penalties for violations of these protections. However, neither of these protocols outlines a specific process for handling complaints from children about violations of their rights. This gap was addressed in the Third Protocol, which was ratified on April 12, 2014, and allows children to submit written complaints regarding any violations of their rights, thus providing a direct avenue for them to express grievances.²⁰

2.13. OTHER INTERNATIONAL INSTRUMENT

The United Nations has also adopted two additional international instruments related to the treatment of prisoners and non-custodial measures:

- a) Standard Minimum Rules for the Treatment of Prisoners (1955)
- b) UN Minimum Rules for Non-Custodial Measures (1990)

²⁰ Aayushvi Sahi and Dr. Harshita Thalwal, "Mental Health and Juvenile Delinquency A Study of Juvenile Offenders in India," 4 International Journal of Research Publication and Reviews 2255–61 (2023).

Article 8 of the Standard Minimum Rules for the Treatment of Prisoners outlines the Separation of Categories (1995), which stipulates that different categories of prisoners should be housed in separate institutions or designated sections within institutions, based on factors such as sex, age, criminal history, legal reasons for detention, and treatment needs. This includes the specific requirement that young prisoners be kept separate from adult offenders.

The Tokyo Rules (1990), or the UN Minimum Rules for Non-Custodial Measures, set forth a framework of standards aimed at promoting non-custodial options in the criminal justice system. These guidelines aim to improve the justice system while fostering a sense of social responsibility among offenders.

3. COMPARATIVE STUDY OF JUVENILE DELINQUENCY WITH OTHER COUNTRIES.

3.1. JUVENILE JUSTICE SYSTEM IN THE UNITED KINGDOM:

The United Kingdom was one of the first countries to introduce specific legislation addressing juvenile delinquency. In 1854, the British government passed the Youthful Offenders Act, granting courts the authority to place young offenders in reformatory homes, with financial support for such institutions from government-approved inspectors. In 1857, the Industrial Schools Act empowered courts to send homeless children, and those deemed incurable by their parents, to industrial schools to address their delinquent behavior. The Probation of Offenders Act of 1907 expanded the juvenile justice system, introducing probation as an alternative to imprisonment, allowing for sentence termination and observation periods.

In 1982, the Criminal Justice Act was introduced to strengthen the juvenile justice framework, reducing imprisonment for offenders aged 15-21. The Crime and Disorder Act of 1998 approved several white paper proposals, further shaping the juvenile justice system. Over time, the UK passed numerous laws addressing juvenile justice to meet evolving societal needs.

Under the Youth Justice and Criminal Evidence Act 1999, Section 16 outlines that if a person under the prescribed age commits an offense, no custodial sentence should be imposed, and a hospital order can be made if health concerns exist. The law also mandates the establishment of Youth Offender Panels under the Crime and Disorder Act 1998. The Children Act 2004 created provisions for a children's commissioner, tasked with ensuring the overall mental and physical development of children. Other acts like the Child Benefit Act 2005 and the Licensing

(Youth Persons) Act 2000 provided for benefits for children and regulations on alcohol consumption for minors, respectively. The Children and Young Persons Act 2008 ensures social work services are provided by local authorities to support the welfare of children.

4.3.2. JUVENILE JUSTICE SYSTEM IN THE UNITED STATES OF AMERICA:

The first major legislative step for juvenile justice in the United States was the Chicago Juvenile Court Act of 1899, which targeted children under 16 who violated criminal laws. The Act, later amended in 1905 to raise the age limit to 17 for boys and 18 for girls, focused on rehabilitating rather than punishing delinquent minors. This legislation also created the Children Bureau to investigate and report on child welfare issues.²¹

The Juvenile Delinquency Control Act of 1968 brought a positive approach to addressing juvenile delinquency, while the Omnibus Safe Streets Act of 1973 aimed to control juvenile crime and improve the juvenile justice system. The Delinquency Prevention Act of 1974 laid down key demands, including:

1. Deinstitutionalization of juvenile offenders, transitioning them to family-based environments.
2. Restrictions on the use of prisons for juveniles.
3. Making the presence of lawyers mandatory in juvenile court proceedings.
4. Establishing specialized courts for handling juvenile cases.

These legislative steps helped shape a more rehabilitative and supportive juvenile justice system in the United States.

3.3. JUVENILE JUSTICE SYSTEM IN CANADA:

Canada's juvenile justice system has evolved significantly over the years, with key reforms aimed at addressing the needs of young offenders. The Youth Criminal Justice Act (YCJA) of 2003 marked a major shift in the country's approach, focusing on reducing the rates of juvenile

²¹ Susan Young, Ben Greer and Richard Church, "Juvenile delinquency, welfare, justice and therapeutic interventions: a global perspective," 41 BJPsych Bulletin 21–9 (2017).

delinquency while promoting a supportive, community-based approach to rehabilitation. This chapter explores the developments and transformations in Canada's juvenile justice system over the past two decades, highlighting the driving forces behind the enactment of the YCJA and the impact of this new legislation.²²

The YCJA was introduced to address several challenges within the existing system, and some of these issues had not been adequately examined through empirical research. This chapter also presents research findings that inform policy development and contribute to the ongoing refinement of Canada's juvenile justice framework.

Core Principles of the Canadian Youth Criminal Justice Act:

The YCJA is founded on three key principles, which guide the country's juvenile justice system:

- **Crime Prevention:** Focusing on the underlying circumstances that contribute to a young person's involvement in criminal behavior.
- **Rehabilitation:** Aimed at reforming young offenders and reintegrating them into society, encouraging positive change.
- **Reintegration and Safety:** Ensuring that juveniles are rehabilitated in a manner that makes society feel secure while supporting the young offender's successful re-entry into the community.

3.4. JUVENILE JUSTICE SYSTEM IN PAKISTAN

In Pakistan, a juvenile is defined as a child under the age of 18. Various legal provisions establish this definition:

- **Juvenile Justice System Ordinance, 2000:** This ordinance stipulates that a person must be under 18 at the time of the offense to be considered a juvenile.
- **Pakistan Penal Code, 1860:** A child under the age of seven is not held criminally responsible. For children between the ages of seven and twelve, criminal liability depends on the outcome of their actions at the time of the offense.

²² Purti Vyas, "Juvenile Justice System and Laws in India - A Detailed study" iPleaders, 2018 available at: <https://blog.iplayers.in/juvenile-justice-system-india/> (last visited February 11, 2025).

- Zina (Enforcement of) Hudood Ordinance, 1979: This ordinance also defines a child as someone under 18 years of age.
- Code of Criminal Procedure, 1983: Under this code, the age of a child is recognized as 15 years old.
- Punjab Youthful Offender Ordinance, 1963: This ordinance considers a child to be someone under the age of 15.²³

In cases involving juveniles, their age is usually determined by examining their School Leaving Certificate. The Juvenile Justice System Ordinance (JJSO) of 2000 outlines various regulations concerning:

- Protection of children,
- Juvenile court proceedings,
- Prosecutions involving young offenders,
- Establishment of juvenile courts, and
- Ensuring that children and adults are tried separately.

The ordinance also mandates the court to investigate and document the juvenile's age with the help of medical reports.

While Pakistan's juvenile justice system is primarily punitive, it excludes the death penalty for minor offenders. However, juveniles aged 15 or older who are arrested for serious crimes—such as violent offenses or crimes against public morality—may face severe punishment. In such cases, the court may deny bail, and the juvenile may be sentenced to life imprisonment or, in some instances, the death penalty.

3.5. JUVENILE JUSTICE SYSTEM IN CHINA

In China, social control is achieved through a mix of formal and informal methods, with particular focus on managing juvenile offenders. Juveniles are not treated as adults, and there are specific laws and norms tailored to juvenile delinquency. The country's legal framework includes various specialized legislations, such as the Juvenile Protection Law and the Juvenile

²³ Maram Deepika, “Functioning of Juvenile Justice Systems in India, US and UK: Explained - Academike” Laxmikant Bhumkar, 2021 available at: <https://www.lawctopus.com/academike/juvenile-justice-systems/> (last visited February 11, 2025).

Delinquency Prevention Law, in addition to general constitutional and criminal justice laws that apply to young offenders.

Before the 1980s, China lacked dedicated laws for juvenile offenders. However, in 1987, Shanghai introduced the Shanghai Youth Protection Ordinance to protect young criminals and establish juvenile courts. The Criminal Code and the Criminal Procedure Code are the primary pieces of legislation concerning juvenile offenders. According to the Juvenile Justice Law, a juvenile is defined as anyone under 18, with legal provisions distinguishing the treatment of minors from adults.²⁴

The Juvenile Delinquency Prevention Law (1999) and the Juvenile Protection Law (1991) play significant roles in addressing juvenile crime. These laws emphasize education over punitive measures for delinquent youths. The reasoning behind this approach includes:

- Enforcing the court's principles and procedures,
- Protecting children who require care and guardianship,
- Ensuring the safety of minors, and
- Safeguarding the rights of juveniles.

China categorizes juveniles into two groups:

1. Delinquents
2. Offenders

Certain behaviors, such as running away, curfew violations, disrespecting parents, or truancy, are not penalized under the Criminal Code. However, more serious offenses like theft, assault, and drunkenness are treated as delinquent acts and are punishable under the law.

Under the Criminal Code of 2011, the age of criminal responsibility is generally set at 16. For minors aged 14 to 16 who commit serious crimes such as murder, robbery, or rape, criminal charges can be brought. However, children under 14 are not held criminally responsible. Judges may impose lighter sentences for those under 18, even when they are convicted of crimes, but

²⁴ Susan Young, Ben Greer and Richard Church, "Juvenile delinquency, welfare, justice and therapeutic interventions: a global perspective," 41 BJPsych Bulletin 21–9 (2017).

they are prohibited from imposing harsh penalties on those under 18, especially if they are between 14 and 18 years of age.²⁵

4.3.6. JUVENILE JUSTICE SYSTEM IN RUSSIA

In Russia, the legal age of criminal responsibility is set at 16, but children aged 14 to 16 can still face legal consequences if they commit serious crimes such as murder, theft, or assault. If a juvenile under 16 is convicted, they may be imprisoned for up to six years, and upon turning 16, their sentence can extend to a maximum of ten years in prison. Russia does not have a separate legal system for handling young offenders; instead, juveniles are processed through regular courts in the same manner as adults, especially for severe crimes like rape or murder. The Criminal Code provides that punishments must be administered with severity, with two main approaches to sentencing juveniles:

1. Punishment based on the juvenile's background;
2. Punishment based on individual characteristics uncovered during pre-trial investigations.

Additionally, Russia has implemented two juvenile justice models to shift away from punitive measures:

- Perm Model: Based on restorative justice principles.
- Rostov Model: Focused on rehabilitation.

In the Rostov Model, the Model Judge's Assistant plays a crucial role by selecting appropriate cases for victim-offender reconciliation programs.

4.3.7. JUVENILE JUSTICE SYSTEM IN SAUDI ARABIA

Saudi Arabia's juvenile justice system is governed by Sharia law, which is not codified. For juvenile offenders, severe punishments, including the death penalty, corporal punishment, and life imprisonment, are legally permissible. Key legislation guiding the juvenile justice system

²⁵ Mihaela Tomită, "Comparative Analysis of Juvenile Delinquency and Non Delinquency," 84 *Procedia - Social and Behavioral Sciences* 1138–42 (2013).

includes the Basic Law of Governance (1992), the Detention and Imprisonment Act (1978), the Juvenile Justice Act (1975), and others.

In Saudi Arabia, the minimum age for criminal responsibility varies between 7 and 12 years, although this does not apply to cases involving girls. According to the Juvenile Detention and Juvenile Home Regulations (1975), minors under 18 are considered juveniles and should be treated according to the law. However, judges can treat juveniles as adults depending on their physical development.²⁶

- **Capital Punishment:** Even for juveniles under 18, the death penalty can be imposed in certain serious crimes. However, the government asserts that undeveloped children cannot be sentenced to death, though judges can decide if a minor is mature enough for such a penalty.
- **Corporal Punishment:** Corporal punishment is permitted in Saudi Arabia, including against juveniles. Judges can order beatings and other physical punishments, though the Juvenile Justice Regulations (1969) encourage less severe measures, such as counseling. The Juvenile Justice Act (1975) allows corporal punishment for minors under 18.
- **Life Imprisonment:** Life imprisonment is also a possible penalty for juveniles. Instead of being placed in public prisons, juveniles are often sent to reformatory institutions with the goal of rehabilitation.

3.8. JUVENILE JUSTICE SYSTEM IN IRELAND

In Ireland, the legal minimum age for criminal liability is 12. Children under 10 or 11 are not considered legally responsible for criminal acts. Ireland has implemented a diversion scheme to rehabilitate young offenders, offering alternatives to criminal proceedings. Juveniles in this system are placed in reformatories with the goal of changing their criminal behavior.²⁷

The Juvenile Liaison Officers are responsible for managing juvenile offenders, working under the Commissioner of Garda Siochana. The Children Act 2001 allows juveniles who enter the

²⁶ V. Kalyani, "Book Review: Juvenile Delinquency: Causes and Control," 52 Criminal Justice and Behavior 313–5 (2024).

²⁷ Kristin C. Thompson and Richard J. Morris, "Theories of Juvenile Delinquency" Advancing Responsible Adolescent Development 41–53 (Springer International Publishing, Cham, 2016).

diversion program to avoid criminal records or charges. It also ensures that evidence related to a child's participation in the diversion program is inadmissible in court.

If a juvenile commits a crime before reaching 14, they can still face legal consequences, but their punishment is influenced by their mental capacity and maturity. Cases involving minors are treated separately from adult cases, with a specific focus on the child's age and maturity when determining punishment. Furthermore, any interview with a detained child must involve a legal representative or a designated adult to ensure the child's rights are protected during the process.

In cases of serious crimes like manslaughter, minors may face charges similar to those of adults, depending on the circumstances and their maturity level.



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