

# A study the International Instruments Relating to Special Treatment of Juvenile

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**Abstract-** *The separation of children from adult offenders was one of the main justifications for the establishment of juvenile justice systems, as was the parent's patria principle, which maintains that the state is responsible for all children who require protection and care. Juvenile courts were established as a unique system from the traditional criminal justice system, with its own set of processes and tactics for rehabilitating and rehabilitating young adults who had committed crimes. Differential treatment for young offenders entered its fourth stage of growth with the growing recognition of children's human rights, as reflected by the United Nations Convention on the Rights of the Child. The researcher examines the national and international implications of differentiating punishment for juvenile criminals.*

**Keywords-** *Juvenile Justice, International, Rights of the Child, Justice Systems*

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## INTRODUCTION

The researcher examines the national and international implications of differentiating punishment for juvenile criminals. Understanding why a delinquent child is punished differently from an adult, even if the offence may be comparable, requires an in-depth examination of national and international instruments.

## RESEARCH METHODOLOGY

The study undertaken is doctrinal research. The evolution and research are based on the roots of utility of Juvenile Justice Act in Indian scenario. The researcher has endeavored to find out various incidents, provision and cases. The researcher has different points on Juvenile Justice. Apprehensive arguments between the uses and misuses of this Act, Therefore all the data collection will have its base for research. The present research work will primarily doctrinal in nature, will employ a range of collection material from primary sources vis. census, legislative debates etc. as well as from secondary sources vis. statutes, govt. documents, books, articles, research papers, websites. The cases decided by the courts will also form part of my material.<sup>1</sup> Doctrinal research facilitates in coming on original research. It provides the language of Judges and other with the tools needed within a fixed time frame. It provides sound background for outstanding and it helps for the

smooth functioning of the legal system of society. A doctrinal research means a research that has been carried out on a legal proposition by way of analyzing the existing statutory provisions and cases by applying the reasoning power. Ordering and systemizing lawful propositions, study of legal institutions through lawful reasoning or rational deduction. Ascertaining a legal rule for the purpose of solving problems is one of the purposes of the traditional legal research. This has been achieved by the original sources of law. The Acts of Parliament and the Acts passed by the legislature fall under this category legislation. The case laws decided by the Supreme Court and High Courts, which are binding on lower courts, fall under the category of precedents. A doctrinal researcher should know how to use a law library, for the major portion of this research methodology concerns with the identification of authoritative sources and uses the techniques to find them out.

## Doctrinal research looks at the following issues:

- The aim of referred values;
- The problems posed by the gap between the policy goal and the present state of achievement;
- Availability of alternative choice for the implementation of goals;

## PHILOSOPHY OF DIFFERENTIAL TREATMENT ON INTERNATIONAL PLATFORM

The separation of children from adult offenders was one of the main justifications for the establishment of

<sup>1</sup> Dr. G. Sheela, a. C. (2015) a study of attitude towards education of juvenile delinquents. International journal of interdisciplinary research, pp 67.

juvenile justice systems, as was the *parens patriae* principle, which maintains that the state is responsible for all children who require protection and care. The "rights" approach, which acknowledges the constitutional and procedural protections that apply to children, eventually replaced the "welfare" model.<sup>2</sup> Treatment of a child in conflict with the law should "be consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others, and which takes into account the child's age and the desirability of promoting the child's reintegration and the assumption of a constructive role in society." This is because juvenile justice has become a topic of conversation regarding human rights.

### CHILDREN'S RIGHTS AND SAFETY: OUTCOMES OF THE THIRD INTERNATIONAL CONGRESS (1902)

Neglected children and the risk of them acquiring criminal tendencies in the absence of care and nurturing were major topics of discussion at the Third International Congress for the Welfare and Protection of Children (1902). In order to prevent at-risk youth from being involved in delinquent behavior, Congress has prioritized providing for previously neglected youth.

### CRITERIA FOR THE DISCRIMINATING CARE OF YOUNG ADULTS

#### (i) The Geneva Declaration of the Rights of the Child, 1924

The Geneva Declaration on the Rights of the Child from 1924 is the first significant statement to fully understand and accept the existence of special rights to children and the accountability of adults towards children. Humanity, it says, owes the next generation its best. The pamphlet argued that juvenile criminals should be helped rather than punished. According to it, "The delinquent kid must be retrieved." This proclamation lays the groundwork for the establishment of future International standards in the domains of children's rights and emphasizes on the social and economic entitlement of children. The proclamation acknowledged children's rights to safety, growth, assistance, and alleviation, and put an emphasis on their well-being.

Children's primary requirements were broken down into five distinct categories. Below is a list of them:-

- 1) "The youngster should be given the typical opportunities for its healthy physical and spiritual growth."

<sup>2</sup> T. A. Baig, *Our Children* 1979, p. 52 (hereinafter referred to as Baig).

- 2) The orphan and the waif must be protected from the elements and given a warm meal. The ill must be cared for.<sup>3</sup> The disadvantaged must be assisted. The wayward must be brought back into society.
- 3) When there is trouble, "the youngster must be relieved first."
- 4) Every effort must be made to ensure that children are safe from exploitation and are given the tools they need to become self-sufficient.
- 5) A kid should be taught from an early age that he or she has a unique gift that should be used to benefit society at large.

#### (ii) Universal Declaration of Human Rights, 1948

Article 16 of this Declaration, which addresses the reintegration and social rehabilitation of young offenders, is very important, Since "the family is the natural and essential unit of society and is should look after by society and the State," this Article places a premium on safeguarding and providing for families. If you take care of your family, you'll naturally take care of your kids. Moreover, all child-care actions and measures are nullified if children are safeguarded and cared for but families are left penniless. Protecting the rights of the parents is a prerequisite to protecting the rights of their children.

#### (iii) The International Covenant on Civil and Political

##### Rights (1966)

**Article 6** states that "the State Parties must not enact or enforce laws providing for the death penalty for an offence committed by a juvenile who is under the age of eighteen"

**Article 7** "The juvenile criminal must not be punished in an inhuman or humiliating way," reads the covenant forbidding such punishment. Under no circumstances should they be subjected to torture or harsh treatment while in police custody.

**Article 10** prescribing the provision for segregation from adult offenders, states as, "The juvenile alleged as accused of any offence shall be kept separated from adults and brought as speedily as possible for adjudication.

#### (iv) The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985

According to the Beijing Rules, "juveniles" are

<sup>3</sup> UNICEF *Les Carnets de L'Enfance*. No. 24, January/March 1975, cited in Baig, p. 54.

"children or young people who, under the different legal systems, may be dealt with for an offence in a fashion which is separate from that applicable to an adult."<sup>4</sup> Juvenile court hearings "must be conducted in an atmosphere of understanding, which must allow the juvenile to participate therein and express her or oneself freely" and "shall be handled in a manner that is favorable to the best interests of the juvenile."

### **Rule 3: No Distinction between Status Offender and Juvenile Offender**

**Rule 3** Neither juvenile offenders nor status offenders are treated differently. In particular, Rule 3 states "Must be applied to both, the juvenile offenders and to juveniles who may be pursued against for any specific action that would not be punished if performed by an adult." That is to say, both status offenders (non-delinquents) and juvenile offenders should be handled similarly. To apply the third rule in this set today would be unjustified. In this case, rule 3 is dismissed as insufficient.

### **Rule 4: Minimum Age of Criminal Responsibility**

**Rule 4** The provision states, "The minimum age for criminal responsibility should not be determined at too low an age level, taking into account the realities of emotional, mental, and intellectual maturation."

**Rule 5** specifies that "The juvenile justice system should stress the well-being of the juvenile and shall guarantee that any response to juvenile offenders shall always be proportionate to the circumstances of the juvenile offender and the juvenile crime."

**Rule 6** "Recognizing the vulnerability of juveniles, Rule 6(2) states that "the exercise of official control over the juvenile offenders should be held accountable at all levels" and that "appropriate scope for discretion shall be allowed at all stages of proceedings and at the different levels of juvenile justice administration, including investigation, prosecution, adjudication, and the follow-up of dispositions."<sup>5</sup>

### **Rule 7: Procedural Safeguards**

**Rule 7** "The fundamental procedural protections for a juvenile are the same as those guaranteed to an adult, including the "presumption of innocence," the "right to counsel, the right to be informed of the charges, the right to be present with a parent or guardian, the right to remain silent, the right to confront and cross-examine witnesses, and the right to appeal to a higher authority."

### **Rule 8: Right to Privacy**

**Rule 8** guidelines to safeguard minors' right to

privacy For the sake of protecting the minor from the negative effects of exposure and stigmatization, "the juvenile's right to privacy should be protected at all phases."

### **Rule 10: Early Notification**

It is mandated that, "Upon the arrest of a juvenile, his or her parents or guardian should be promptly informed of such apprehension and if such immediate communication is not practicable, the parents or guardian shall be told within the shortest possible time afterwards" (Rule 10).

### **Diversion/S:-**

In accordance with Rule 11, "the responsible authority shall give attention, if appropriate, to dealing with juvenile offenders without resorting to formal trial," the competent authority must investigate alternatives to formal trial. Juveniles or their legal guardians must provide consent before they may be diverted to community service or other programmes; nevertheless, any such referral decision is appealable to a higher authority. To help in the discretionary disposition of juvenile problems, Rule 11 calls for the provision of community services such as short-term supervision and mentoring, restitution, and victim compensation (4).

### **Special Police Unit:-**

Rule 12 states that "the police employees who often or exclusively engage with teenagers or who mainly are concerned in juvenile crime prevention should be specially taught and trained." This is why large urban centre's need their own police departments.

### **Directives For Pending Trial:-**

**Rule 13** the "detention until trial must be utilized only as a measure of last resort and for the shortest amount of time" regulation is strictly adhered to. According to the regulation, "juveniles under custody awaiting trial should be detained in a separate facility or in a separate section inside an institution also holding adults."<sup>6</sup> To paraphrase Rule 13(5): "When in custody, juveniles should be given with the care, protection, and all necessary individual help, including social, educational, vocational, psychological, medical, and physical, as suitable to their age, sex, and personality."

### **Competent Authority for Adjudication:-**

**Rule 14(1)** "A juvenile criminal shall be treated with the utmost fairness and justice by the appropriate authority (court, tribunal, board, council, etc.) if the matter has not been diverted (under rule 11)."

**Rule 14(2)** stipulates that "the procedures must be handled in an environment of understanding, which

<sup>4</sup> T.A. Baig, "We are still far from true investment in the child", The Times of India, 22 September 1988, Sec. 2, p. 3.

<sup>5</sup> Id., para 3.8.96.

<sup>6</sup> Id., para 3.10.32.

shall enable the juvenile to participate therein and express herself or himself freely."

**Right to be Represented:-**

**Rule 15(1)** guarantee the right to adequate counsel by stating, "The juvenile shall have the right to be represented by an attorney or to request for free legal assistance if such help is provided in the nation" (where applicable)."

**Social Inquiry Reports:-**

**Rule 16(1)** the following is stated: "Except in cases involving minor offences, the juvenile's background and circumstances, or the circumstances in which the offence has been committed, shall be properly investigated to facilitate judicious adjudication by the competent authority before a final disposition is made before sentencing."

**Directive Principles for Adjudication and Disposition:-**

**Rule 17(1)(a)** dictates that punishment must be proportional to the offence committed, the juvenile offender, and society as a whole. The regulation is based on the notion that each offender should be treated differently."

**Rule 17(1) (b)** recommendations such as "The constraints on the personal liberty of the juvenile must be imposed only after careful thought, and shall be confined to the feasible minimum;"

**Rule 17(1) (c)** " If a juvenile is found to have committed a violent act of violence against another person or to have persisted in committing other serious offences, and if there are no other acceptable alternatives,<sup>7</sup> then the law stipulates that the child's liberty may be restricted.

**Rule 17(1) (d)** promises "The juvenile's best interests will be the first concern in her or his case."

**Rule 17(2)** proscribes "death sentence to juvenile offenders".

**Rule 17(3)** proscribes "corporal punishment to juveniles".

**Diverse Disposition Methods:-**

**Rule 18(1)** calls for a wide range of non-institutional treatment options instead of a single hospital-based plan:-

- a) "Care, guidance and supervision orders;
- b) Probation
- c) Community service orders;
- d) Financial penalties, compensation and

- restitution;
- e) Intermediate treatment and other treatment orders;
- f) Orders to participate in group counseling and similar activities;
- g) Orders concerning foster care, living communities or other educational settings;
- h) Other relevant orders".

**Application of The Standard Minimum Rules for the Treatment of Prisoners Adopted by The United Nations:-**

**Rule 27(1)** The following should be implemented to juvenile offenders in institutions, including those in detention awaiting adjudication: "The Basic Minimum Standards for the Treatment of Prisoners and accompanying suggestions should be applied, to the extent appropriate, to the treatment of juvenile offenders."

**Rule 27(2)** lays down- "To the extent possible, the principles described in the Standard Minimum Guidelines for the Treatment of Prisoners should be applied to meet the specific needs of juveniles on the basis of their age, gender, and uniqueness."

**Frequent and Early Recourse to Conditional Release:-**

**Rule 28(1)** prescribes,-" A conditional discharge from an institution should be provided as soon as practicable and used to the fullest degree possible."

**Rule 28(2)** prescribes- "The community must fully support and help the juveniles who are conditionally released from an institution."

**Semi –Institutional Arrangements:-**

**Rule 29(1)** proposed for proper reintegration - "Half-way houses, educational homes, day-time training facilities, and other such acceptable arrangements that may aid juveniles in their correct reintegration into society should be made available."

**Promotion Of Research For Planning, Policy Formulation And Evaluation:-**

**Rule 30(3)** Directs "It is imperative that efforts be made to integrate a framework for routinely conducting evaluative research within the juvenile justice administration system."

**Rule 30(4)** Directs "Juvenile justice administration service provision must be methodically planned and carried out as an important element of national development initiatives."<sup>8</sup>

**(v) The United Nations Convention on the**

<sup>7</sup> Id., para 3.10.39.

<sup>8</sup> National Programme of Action Children India, p. 3.

### **Rights of the Child (1989):-**

**Article 1** defines a minor as an individual who is under the age of eighteen, unless that person has achieved the age of majority under another law."

**Article 37** declares that no child under the age of 18 shall be subjected to the death penalty or obligatory life sentences, as well as prohibits torture and other cruel, degrading, or humiliating treatment or punishment. Neither the death sentence nor life in prison without parole may be imposed for crimes committed by people under the age of eighteen."

**Article 37(b)** states that no minor may be unlawfully or unjustly deprived of their liberty. The arrest, detention, or imprisonment of a minor must always be done in compliance with the law, be a last resort, and be for as brief a time as feasible."

**Article 37(c)** bans the cruel treatment -"Every child who is denied their freedom must be addressed with compassion and respect for their inherent dignity as a human being, and in a manner that is attentive to their age-specific needs. In particular, unless exceptional circumstances apply, all children who are denied their freedom must be isolated from adults and must be permitted to maintain contact with their families via written correspondence and in-person visits.

**Article 37(d)** the right to prompt access to legal and other appropriate assistance is guaranteed, as is the right to challenge the legality of the deprivation of liberty before a court or other competent, independent, and impartial authority, and to a prompt decision on any such action.

**Article 40 (1)** provide orders to the states All parties agree that every child who is suspected of, charged with, or convicted of a criminal offence has the right to be treated in a way that promotes the child's sense of dignity and worth, that helps the child develop a healthy respect for the human rights and fundamental freedoms of others, and that takes into account the child's age and the desire to help the child reintegrate into society and play a positive role in it.<sup>9</sup>

**Article 40(2)(a)** This clause states that "no child shall be alleged as, charged of, or recognized as having breached the criminal law by reason of actions or omissions that were not banned by national or international law at the time they were committed."

**Article 40(2) (b) (i)** provides the "principle of innocence."

**Article 40(2) (b) (ii)** Prescribes "The concept of fair chance to be heard". He or she shall be notified of the accusations against him or her without

unnecessary delay, via his or her parents or legal guardians, and shall be given legal or other appropriate aid in the preparation and presentation of his or her defense."

**Article 40(2) (b) (iii)** Directs for fair hearing - "Without undue delay, the matter shall be decided by a competent, independent and impartial authority or judicial body in a fair manner, in accordance with the law, in the presence of legal or other appropriate assistance and, unless it is not in the best interest of the child, in particular taking into account his or her age or situation, the child's parents or legal guardians.

**Article 40(2) (b) (iv)** states that "No accused kid should be forced to become a witness against himself or herself."

**Article 40(2) (b) (v)** establishes the right to appeal as "to seek review of a decision made by a lower authority by a higher competent authority."

**Article 40(2) (b) (vii)** confers "The child right to privacy at all stages of the proceedings."

**Article 40(3)** directs the States Parties "Seek to advance the creation of laws, processes, authorities, and institutions that are tailored to minors who are suspected of, charged with, or convicted of breaking the law.

**Article 40(3) (a)** instruct the State "To determine what age a kid cannot be deemed guilty of breaking a criminal statute until proven otherwise."

**Article 40(3) (b)** says-"means for dealing with such children outside of the court system, wherever possible and desirable, provided all human rights and legal protections are properly respected."

**Article 40(4)** prescribes- "To ensure that children are dealt with in a way that is conducive to their well-being and proportionate to their circumstances and the offence, a range of dispositions including care, guidance, and supervision orders, counseling, probation, foster care, education and vocational training programmes, and other alternatives to institutional care shall be available."

### **vi) The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990):-**

The "United Nations Rules for the Protection of Juveniles Deprived of Their Liberty" (also known as the "Havana Rules") and "the United Nations Guidelines for the Prevention of Juvenile Delinquency" are two international juvenile justice laws that were adopted by the UN General Assembly in 1990.<sup>10</sup> The Havana Rules are the first international document to define a juvenile as any person under the age of 18. The juvenile justice

<sup>9</sup> See, supra note 86 at 3.8.110.

<sup>10</sup> Id., para, 3.8.110.

system's mission is to "uphold the rights and safety and promote the physical and mental well-being of adolescents," according to the Havana Rules. Furthermore, To ensure "the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, with a view to counteracting the negative effects of all types of detention and to foster integration into society," the United Nations has proposed a set of rules known as the "Havana Rules." Detention prior to trial, which is likewise criticized by the Havana Rules, must be avoided if possible and limited to extraordinary circumstances.

#### (vii) Havana Rules, 1990:-

**Rule 1** provides- "The use of incarceration should be a last option. A second connotation is that a minor offender may face incarceration for a particularly terrible offence.

**Rule 2** provides that if a juvenile is depriving of the liberty, the Beijing Rules set forth shall be followed.

**Rule 11(a)** states, "Someone under the age of eighteen is considered a juvenile. Also, "deprivation of liberty should be according to law" is stipulated."

**Rule 11(b)** forbids any type of detention or incarceration, as well as confinement in a public or private custodial environment, from which the individual is not free to go at will, on the order of any judicial, administrative, or other public authority."

**Rule 12** ensures, "For youth in institutional care, it is imperative that they have access to programmes and services that will help them feel valued and respected as individuals, develop a sense of responsibility, and acquire the habits and knowledge that will allow them to reach their full potential as contributing members of society."<sup>11</sup>

**Rule 14** allows for a child's appeal, "The Juveniles should be allowed right to question the legality of the execution of the detention."

#### Education, Vocational Training and Work:-

**Rule 39** confers the right to education, "Juveniles who are above the age of mandatory schooling but want to continue their education should be supported in their efforts and given every opportunity to do so."

**Rule 41** ensures, that "At every juvenile detention centre, inmates should have access to a library that is well-stocked with reading materials for both educational and recreational purposes."

**Rule 42** provides that "Juveniles have a right to get education in fields that will help them find gainful

jobs once they leave school."

**Rule 44** provides that "Juveniles robbed of their freedom should be protected by the same national and international laws that protect children and young employees."

**Rule 46** confers the right to remuneration, "In accordance with their abilities, all minors who contribute to the household income should be compensated fairly for their efforts."

**Rule 49** ensures the right medical care, "Preventative and corrective medical treatment, including dental, ophthalmological, and mental health care, as well as pharmaceutical goods and special diets as medically required, will be made available to every adolescent."<sup>12</sup>

**Rule 50** confers "Every minor admitted to a detention centre has the right to a medical examination within 24 hours of arrival, with the goal of documenting any history of treatment and detecting any physical or mental condition that requires medical care."

**Rule 59** postulates "The guidelines for a juvenile's successful return to society after being released from a correctional facility. This is because "adequate connection with the outside world is an intrinsic aspect of the right to fair and humane treatment and is crucial to the preparation of juveniles for their return to society," as the article puts it."

**Rule 60** makes allowances for people to have some freedom even while receiving therapy in a facility. It says, "Every juvenile shall have the right to receive regular and frequent visits, in principle once a week and not less than once a month, under conditions that respect the need of the juvenile for privacy, contact, and unfettered communication with the family and the defense counsel."

**Rule 61** prescribes the provision "Unless prohibited by law, all minors should be allowed at least twice-weekly written or telephone contact with an adult of their choosing and provided with any required support to exercise this right. Underage people should be allowed to get mail just like adults."

**Rule 63** prohibits, "Recourse to instruments of restraint and to force for any purpose should be prohibited."

**Rule 64** the one and only exception to the aforementioned Rule 63, which reads as follows: "Instruments of constraint and force may only be employed in extraordinary instances, when all other control measures have been exhausted and failed, and only as specifically allowed and detailed in law and regulation."

<sup>11</sup> Id., para 3.8.96.

<sup>12</sup> Id., para 3.8.100.

### **Disciplinary Procedures:-**

**Rule 67** avoids punitive measures that may be seen as harsh, inhuman, or humiliating. As the law reads, "corporal punishment, incarceration in a dark cell, locked or solitary confinement, or any other punishment that may threaten the physical or o mental health of the child involved should be absolutely forbidden."

**Rule 68** prescribes guidelines "About rules and laws enacted by the appropriate government agency. It orders the powers-that-be to make rules that properly account for the unique qualities, requirements, and rights of children and adolescents."<sup>13</sup>

**Rule 75** confers right to every juvenile "The right to address concerns or make requests directly to the detention center's administrator or designated representative."

**Rule 76** confers "Every minor has the right to submit a formal request or complaint to the central administration, the judicial authority, or other appropriate authorities via authorized channels without fear of retaliation for the content of their request or complaint, and to be promptly notified of the outcome."

**Rule 77** recommends for "The creation of a neutral office (ombudsman) to receive and evaluate complaints from detained minors and facilitate the attainment of fair resolutions is proposed."

**Rule 78** confers "Every minor has the right to seek complaint help from adults they trust, including as family members, legal advisors, humanitarian organizations, and others.."

**Rule 80** recommends, "Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against such juveniles."

**Rule 82** Provides "Management should ensure that all levels and types of employees are selected and recruited with due diligence." Managers of juvenile detention centers need to have the right combination of character, compassion, competence, and experience to do their jobs properly."<sup>14</sup>

**Rule 87(b)** suggests, "Every member of staff has an obligation to actively stand against corruption and bring it to the attention of the proper authorities."

**(viii) The United Nations Guidelines for the Prevention of Juvenile Delinquency, "The Riyadh Guidelines" (1990):-**

**Guideline 56** probes allegations of status violations and those who have committed them. Laws should be enacted to protect juveniles from being unfairly treated as criminals, victims, or outcasts, and to guarantee that any behavior that would not be deemed an offence or penalized if performed by an adult is not considered an offence or punished if committed by a juvenile.

This section of the Guidelines makes it quite apparent that status offenders are no longer subject to juvenile justice administration. There is a distinction between delinquent juvenile justice and justice for neglected or other adolescents, the article argues. It is well established that the juvenile justice system typically begins with taking into custody, which results in deprivation of liberty for children, due to the removal of status offenders, which includes many categories of children in the current definition of children in need of care and protection. Because of this, the Guidelines advocate for the exclusion of status offenders from juvenile judicial systems. According to these principles, children who need care and protection should not fall within the purview of the juvenile justice system, which often involves incarceration.

**Guideline 58** provides alternatives to the juvenile justice system, such as diversion programmes, for young people who have committed crimes. It strongly implies that, to the greatest degree feasible, juvenile delinquents accused of less severe offences should be dealt with outside the purview of the juvenile justice administration, via different rehabilitator schemes and programmes. This makes it quite evident that a delinquent child's freedom must be sacrificed in the sake of juvenile justice administration. It also implies that the primary concern in the juvenile justice system is the youth's custody and freedom, which is why both binding and non-binding international accords include provisions for diversionary programmes. Due to the need of community involvement, which cannot be compelled in the rehabilitation processes of juvenile delinquents, the goal of diversion is an illusion that can never be realized.

### **CONCLUSION**

There was an attempt in past laws to redefine "juvenile," but they were unsuccessful. From 1920 until the Act of 2000 was passed in India, the legal classification of "neglected juvenile" and "juvenile delinquent" was consistent. From the time when juvenile offenders were first separated from adult offenders in jail, there has been a clear pattern of preferential treatment for juvenile offenders. Hence, the 'segregation' was the first time in history that young people were given special attention. The second phase of differentiating treatment for juvenile offenders (now juveniles in conflict with the law) began with the implementation of the system of

<sup>13</sup> See Baig, p. 56.

<sup>14</sup> T. A. Baig, 'Overview of Child Welfare', in Profile of the Child in India Policies and Programmes, ministry of social welfare, Government of India, 1980, pp. 5□6.

releasing them on parole and license while serving a jail term.

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