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# Balancing Punitive and Rehabilitative Approaches to Juvenile Justice

An Investigation into the Common Mechanisms used by Countries  
to Prosecute Young Offenders as Adults

Kirsti Wright, Mia Rountree, Adam Muddle, Emily Rich





This presentation is based on the report titled, *Balancing Punitive and Rehabilitative Approaches to Juvenile Justice*, prepared by Kirsti Wright, Mia Roundtree, Emily Rich and Adam Muddle, senior law students from the Macquarie University's Law Department. The report provides insight and understanding on different approaches to juvenile justice in 15 countries, particularly in the light of international standards, increasing use of 'waivers' to try juveniles as adults and the use of psychological assessments.

It is part of the LAWS552 PACE International Remote Internships Programme carried out through partnership between the Macquarie University in Sydney, Australia and HAQ: Centre for Child Rights, an NGO based in New Delhi, India.

The project was carried out under supervision of Debra Ronan (PACE Supervisor at Macquarie University) and Bharti Ali (Co-Founder & Executive Director at HAQ).

# What we will discuss

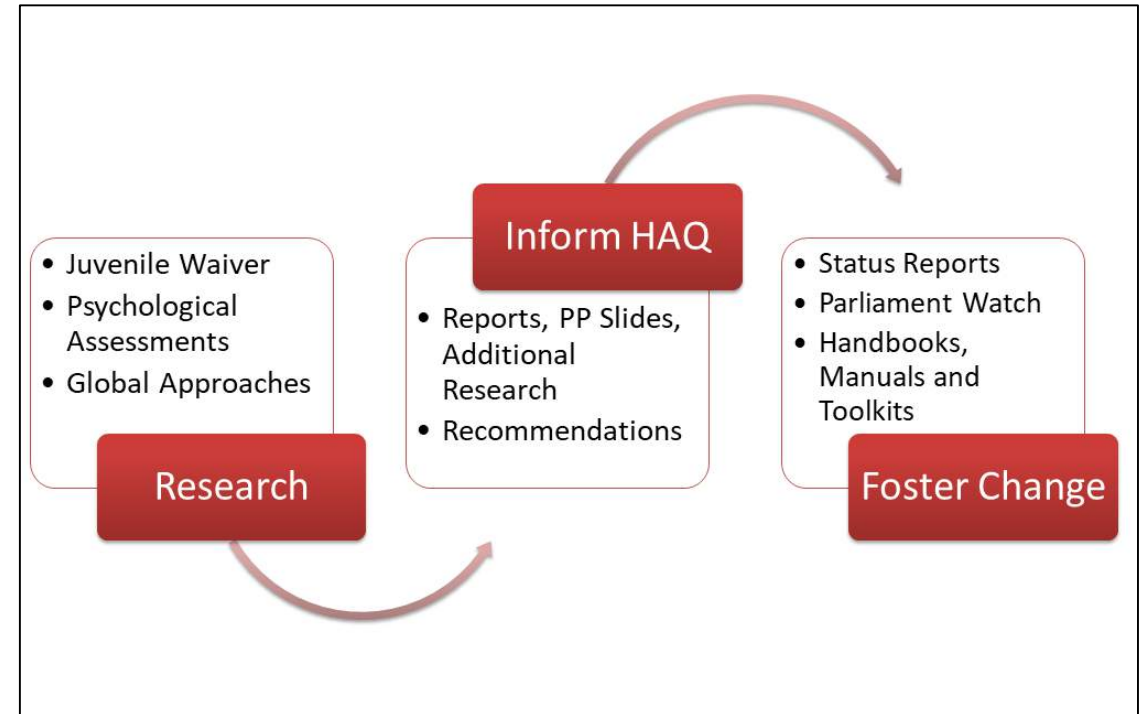


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1. Brief Overview
  2. What drives juvenile crime?
  3. Theory: Approaches to juvenile justice
  4. International Standards
  5. 'Populist Politics'
  6. Juvenile Waiver overview
  7. Psychological Assessment overview
  8. Welfare Approach
    - Canada
  9. Justice Approach
    - Saudi Arabia
  10. Hybrid Approach
    - Belgium and USA
  9. Recommendations / Further Research

# Our Research Goal

What did we set out to achieve?

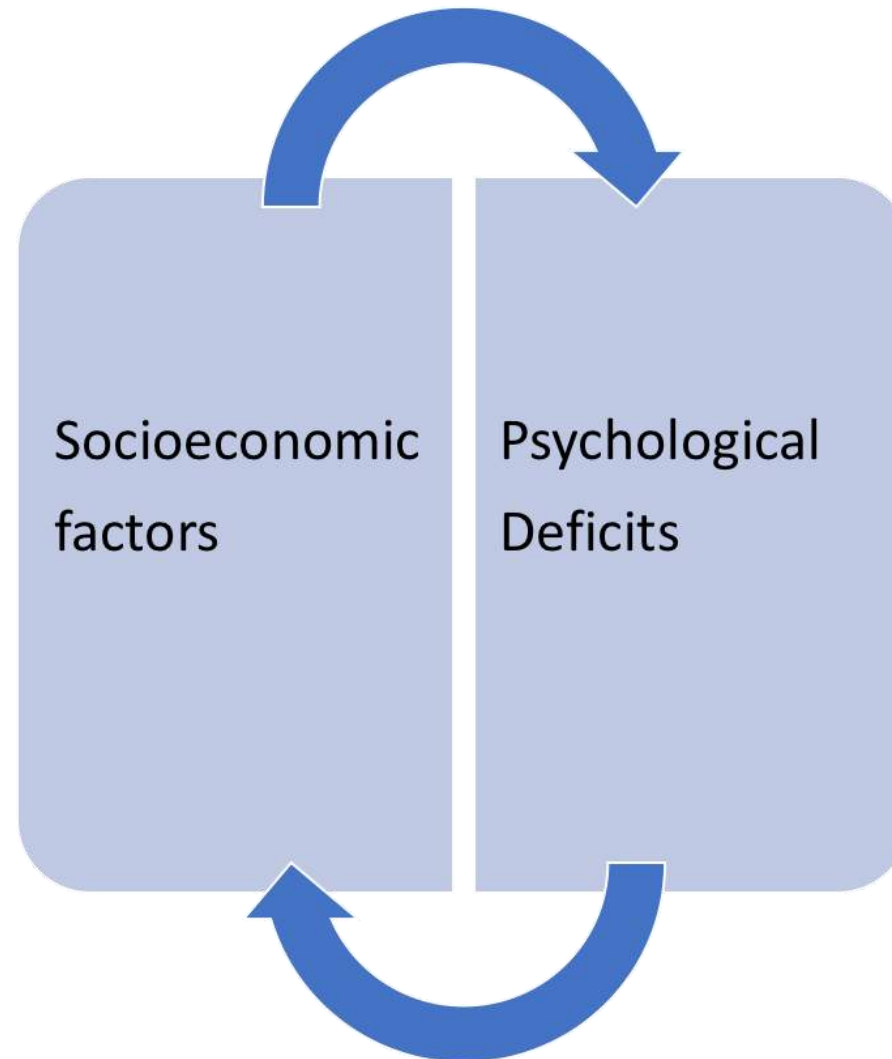
1. An understanding of the common mechanisms used by countries to prosecute young offenders as adults i.e. juvenile waivers.
1. An understanding of how psychological assessments are used to determine capacity and criminal responsibility.
1. Analysing how these two focus areas (theory) are implemented in legal systems across the globe (in practice).



# What Drives Juvenile Crime?

Causes of juvenile crime

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# Different Approaches to Juvenile Justice



## Three different models

1. Welfare Model	2. Justice Model	3. Hybrid Model (justice model/welfare model)
<ul style="list-style-type: none"><li>• <i>Parens patriae</i></li><li>• <i>Child protection</i></li><li>• <i>Education</i></li><li>• <i>Rehabilitation</i></li><li>• <i>Restorative justice</i></li><li>• <i>Best interests of child</i></li></ul>	<ul style="list-style-type: none"><li>• <i>Punitiveness</i></li><li>• <i>Incapacitation</i></li><li>• <i>Punishment</i></li><li>• <i>Retribution</i></li><li>• <i>Deterrence</i></li><li>• <i>Victim support</i></li><li>• <i>Judicial waiver</i></li></ul>	<ul style="list-style-type: none"><li>• <i>Combination of approaches from both the <u>welfare</u> and <u>justice</u> models</i></li><li>• <i>E.g. High age of criminal responsibility + juvenile waiver (Belgium)</i></li><li>• <i>E.g. Educational reforms + wide judicial discretion when sentencing (Malaysia)</i></li><li>• <i>E.g. Ratification of international instruments + cultural and religious principles</i></li></ul>



# Populist Politics, Moral Panic and Sensationalist Media Reporting



# International Standards



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## Serious Young Offenders and International Standards of Sentencing

**‘Every person under the age of 18 years at the time of the alleged commission of an offence must be treated in accordance with the rules of juvenile justice’.**

Participation by  
juvenile

Best - Interests  
of juvenile

Community  
Safety

Detention as a  
last resort

Shortest  
appropriate time  
in cases of  
detention

Rehabilitation

Cruel, inhuman  
or degrading

Proportionality

Are a range of  
sentencing  
options  
available?

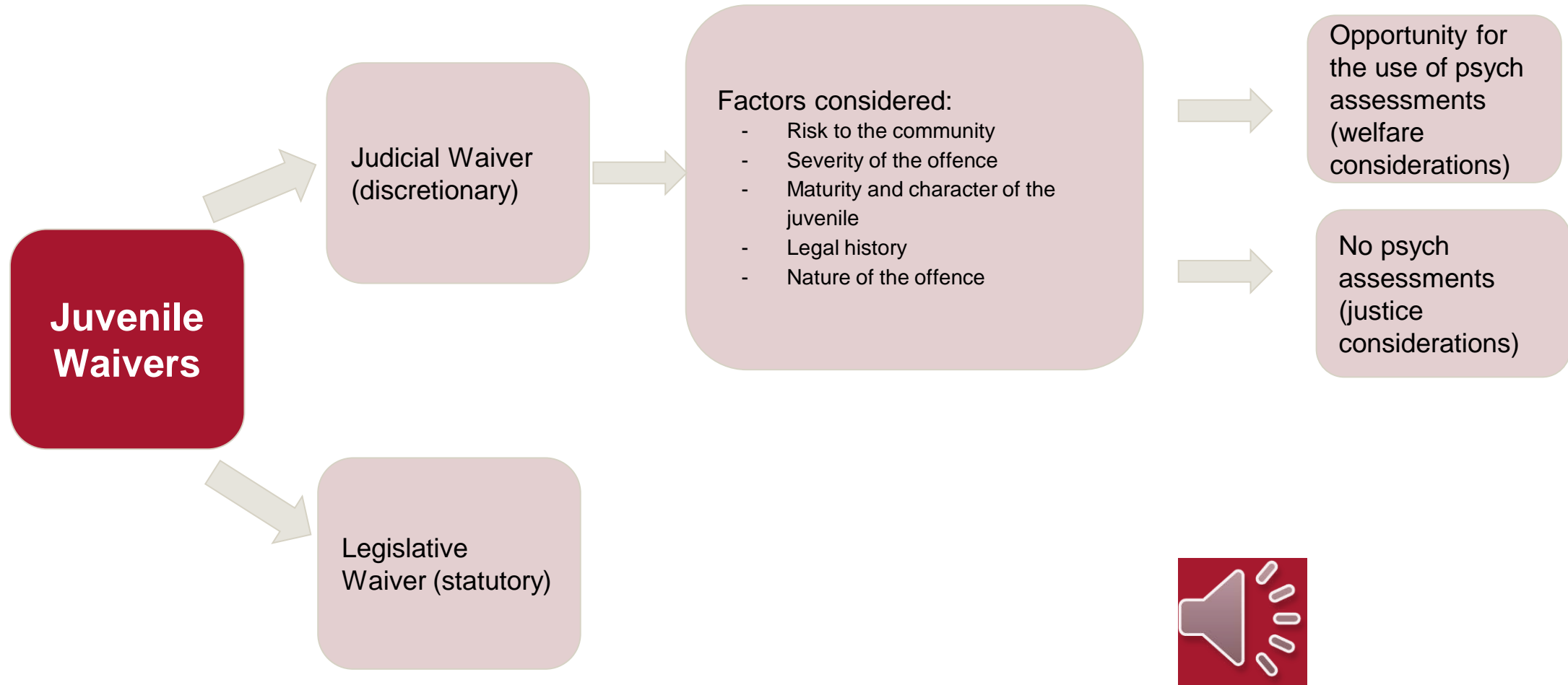
Is the sentence  
free from  
arbitrariness?



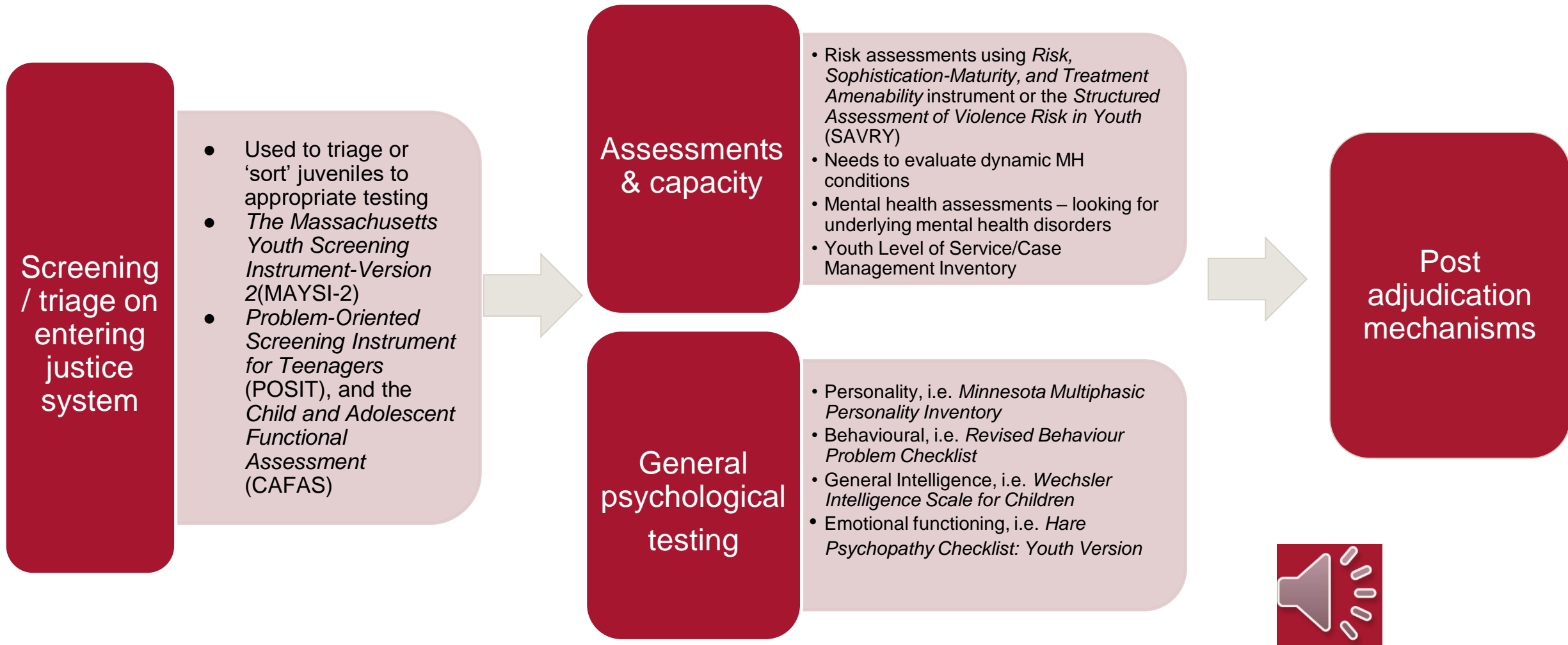


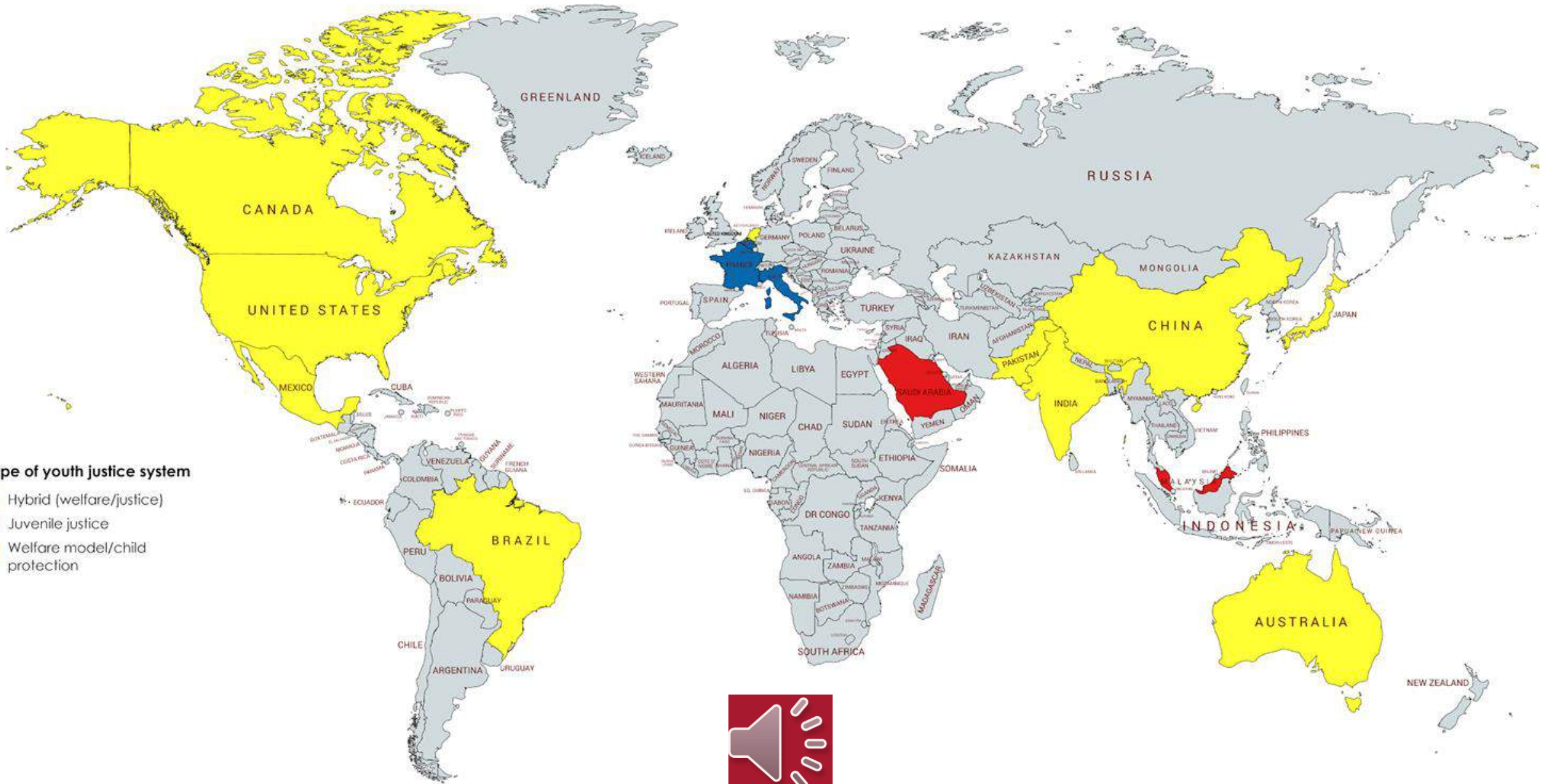
# Juvenile Waiver

Common mechanism by which to try juveniles as adults



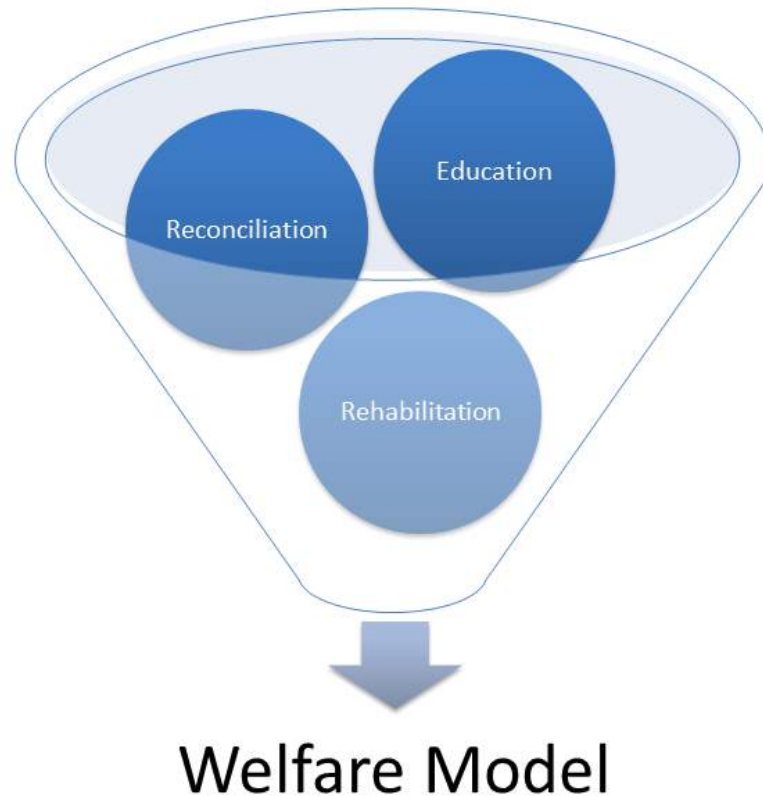
# Psychological Assessments





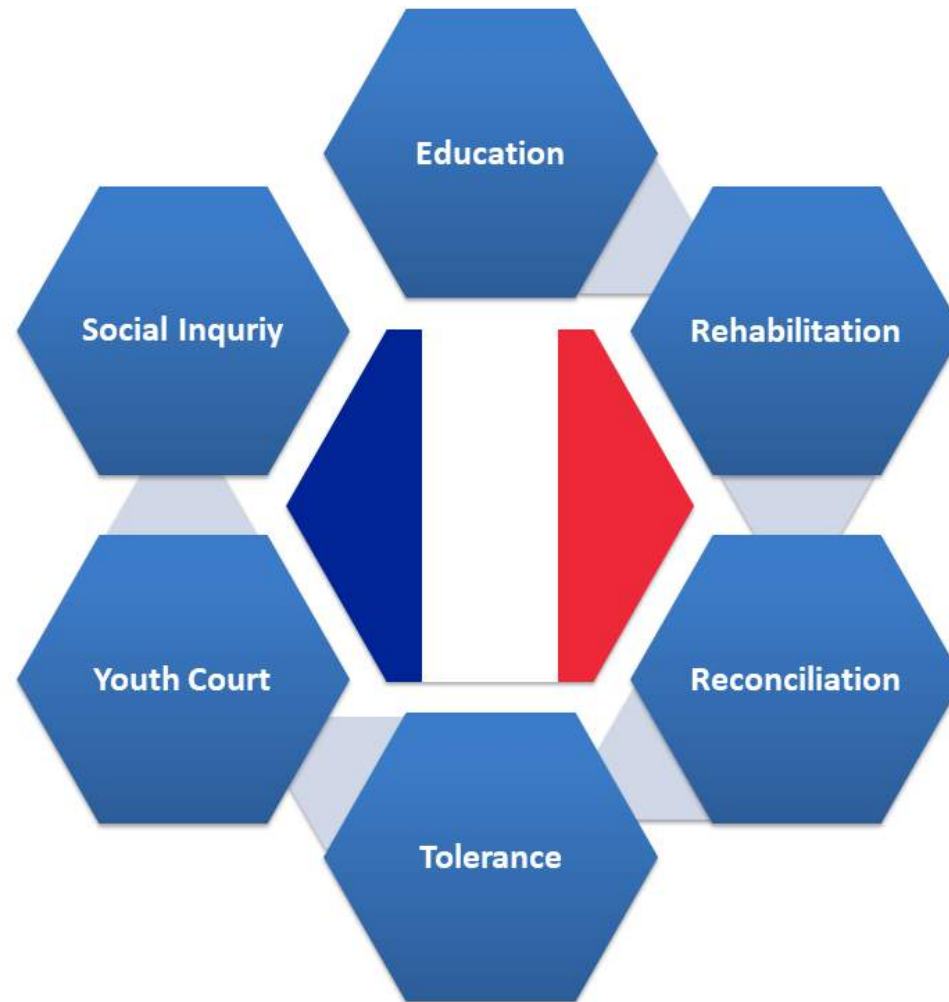
# Welfare Model

## Approach 1



# France

## CHILD WELFARE

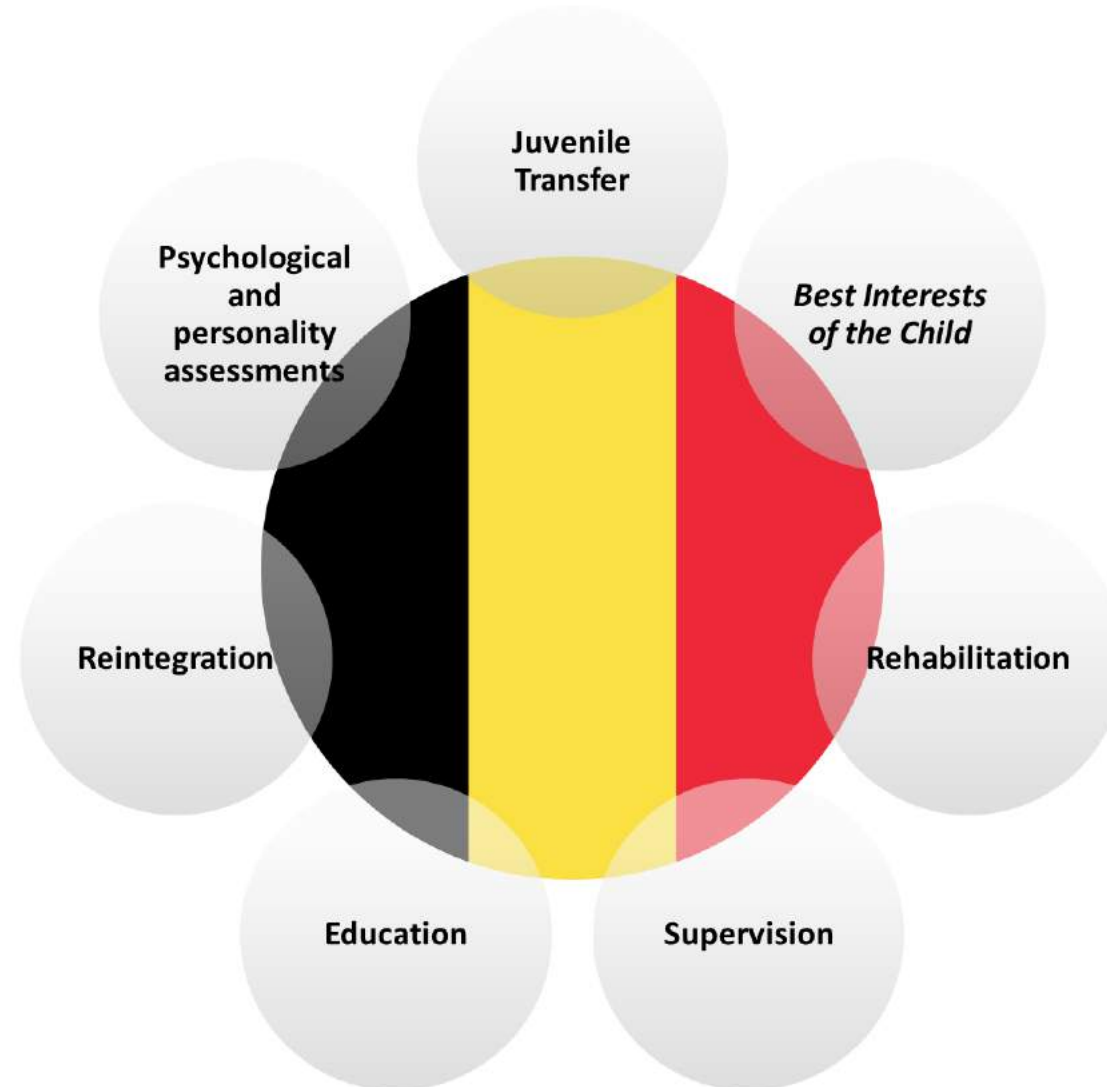


# Belgium

## CHILD WELFARE



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# Justice Model

## Approach 2

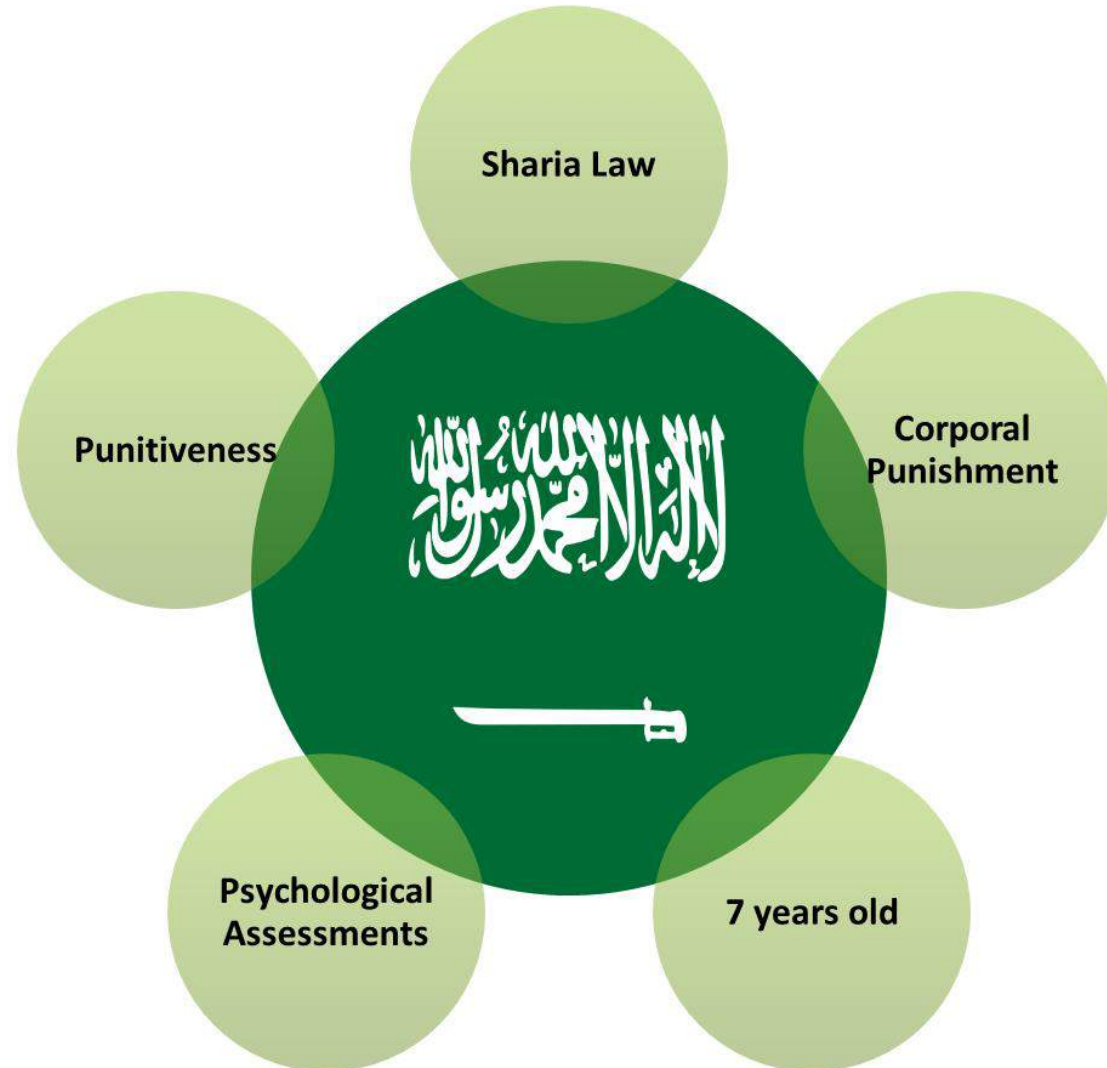


# Saudi Arabia

## JUSTICE MODEL



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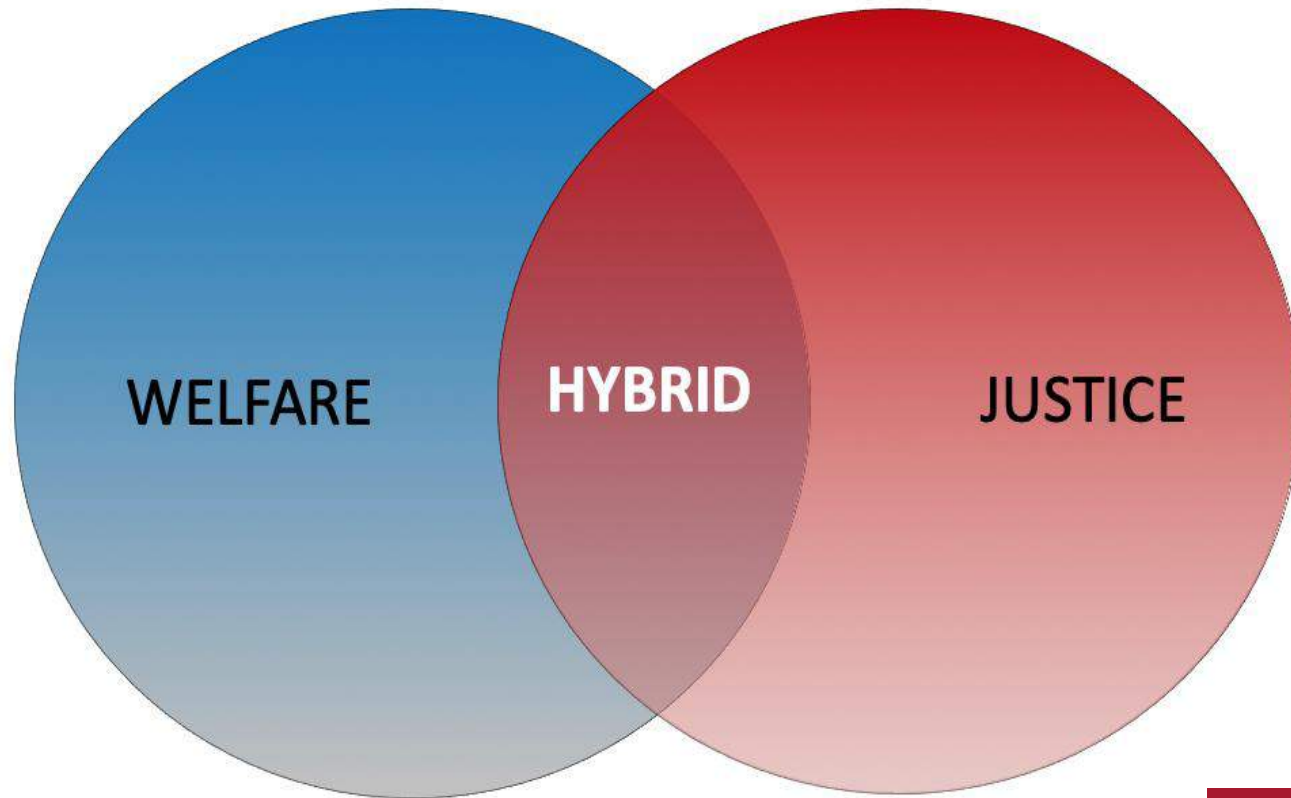


# Hybrid Approach

Hybrid model (welfare + justice)



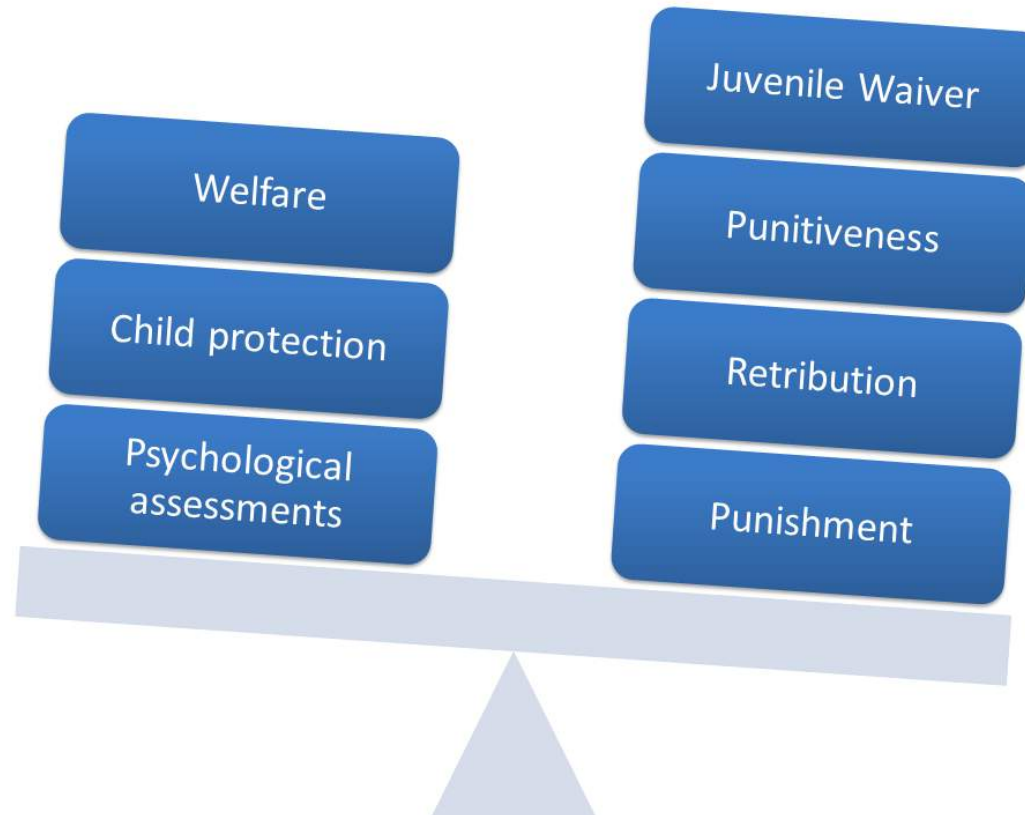
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-  United States of America
-  Mexico
-  Brazil
-  Australia
-  China
-  Japan
-  India
-  Pakistan
-  Netherlands
-  Canada

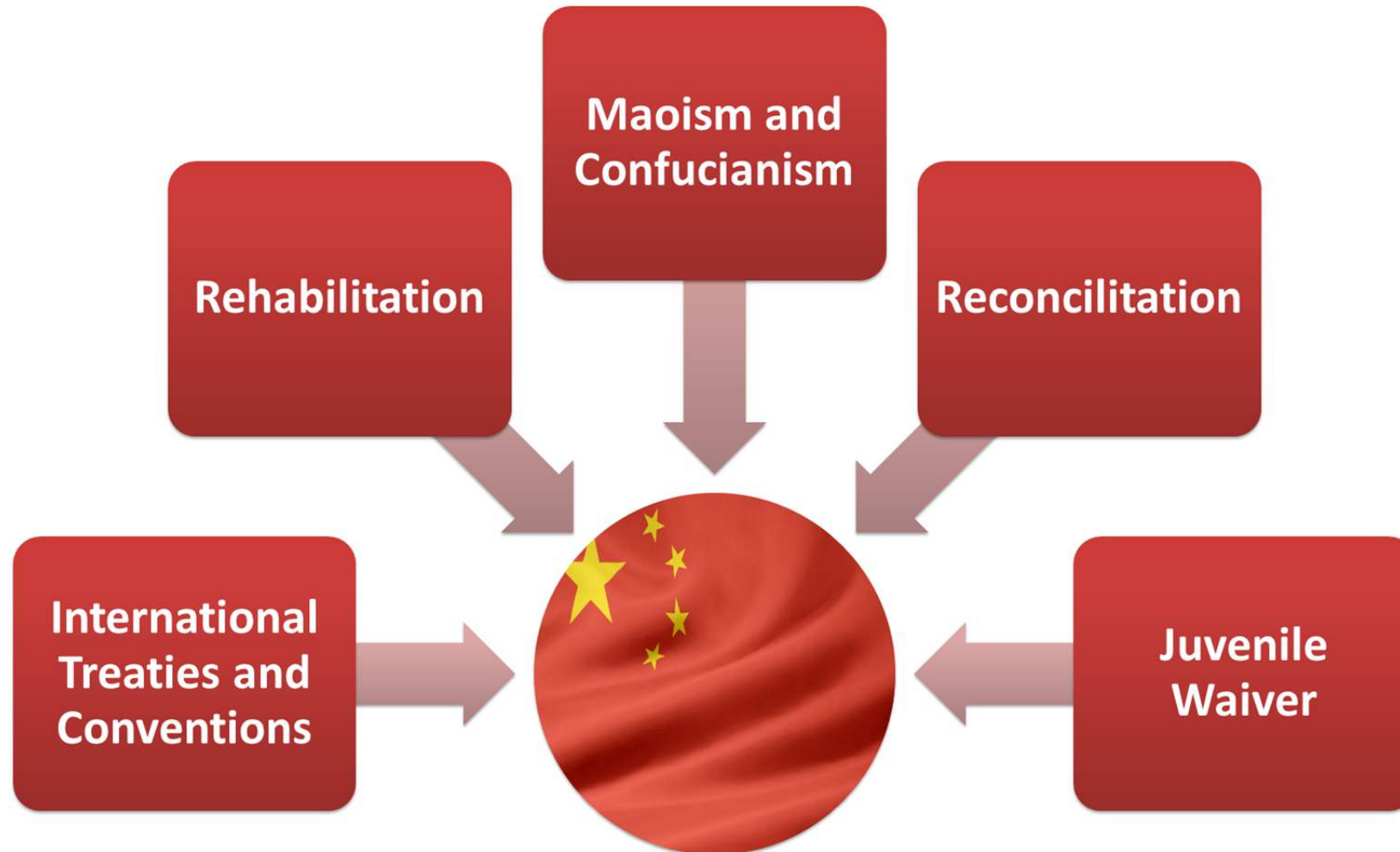
# United States of America

## HYBRID MODEL



# China

## HYBRID MODEL



# Further Research

- Kirk Heilbrun, David DeMatteo, Thomas Kline and Naomi Goldstein (eds), *APA Handbook of Psychology and Juvenile Justice* (American Psychological Association, 1st Edition, 2016).
  - Excellent resource on psychological evaluations, social inquiries, risk assessment, training professionals to perform psych evaluations etc. in the U.S.
- Ton Liefaar and Maryse Hazelet, 'Alternatives to Custody for Young Offenders: National Report on Juvenile Justice Trends (Netherlands)' (Comparative Report, International Juvenile Justice Observatory, 2012).
- Sabien Hespel and Johan Put, 'Alternatives to Custody for Young Offenders: National Report on Juvenile Justice Trends (Belgium)' (Comparative Report, International Juvenile Justice Observatory, 2012).
  - Two excellent and recent resources on juvenile transfer in Belgium and the Netherlands
- Government of Canada, 'Youth Risk/Need Assessment an Overview of Issues and Practices,' *Department of Justice* (Web Page, 1 July 2015) <[https://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/rr03\\_yj4-rr03\\_jj4/a1.html](https://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/rr03_yj4-rr03_jj4/a1.html)>.
  - 42 item list to survey youth in Canada, including scientific and psychological assessments