

## Trends Towards Juvenile Justice in India

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Child is the most important asset of any nation. They are the crucial element for the prosperous of a nation. They are most vulnerable group in any society or state. Children are exploited , ill treated and directed in to undesirable channels by antisocial element in the community.<sup>1</sup> When they are neglected or abused, participated in any criminal activities their ethical moral and intellectual growth are curtailed. Now a days children are committing more and more crimes in the prevailing cultural and social milieu.

Incidence of Juvenile Delinquent

Year	Juvenile delinquent	Juvenile have Committed Rape
2001	16509	399
2002	18560	485
2003	17819	466
2004	19229	568
2005	18939	586
2006	21088	656
2007	22865	746
2008	24535	776
2009	23926	798
2010	22740	858
2011	25125	1149
2012	27936	1175
2013	31725	1316

Source: Crimes in India

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<sup>1</sup> Dr. K. P. Singh , Juvenile Justice in India Implementation Barriers , Indian Police Journal, April- June 2011 p.105-110

Crime committed by juvenile have increased in the last decade. According to NCRB data 2013 crimes committed by juveniles to total IPC crimes was reported as 1.2%. The highest percentage of crime reported by juvenile was reported under assault on women to outrage her modesty 132.3% then after insult to the modesty of women 70.5% and rape 60.3%. In the year apprehended juvenile under IPC was 66.3% in the age group of 16-18 years. Out of the total juveniles (43,506) involved in various crimes, 8,392 were illiterate and 13,984 had education up to primary level. These two categories together accounted for 51.9% of the total juveniles arrested during the year 2013. A large number of juvenile 50.2% belonged to the poor families whose annual income was up to 25000 rupees.<sup>2</sup> After Delhi gang rape case the juvenile whose participation in this case was reportedly most brutal and gruesome was held guilty by juvenile justice board and awarded punishment for three years and sending to special home. After this voices of the public at large to reduce the age of juvenile is 18 to 16years and demanded the capital punishment for juvenile who participated in the gang rape case. Millions were infuriated and demanded for a stricter punishment for the juvenile for the heinous crime committed by him rape of a women inflicting injurious which ultimately led to her death.<sup>3</sup>

According to Psychologist family environment and neighbour circumstance are responsible for the creation of character. The children behave those character which he have live in the circumstances thus due to bad situation or environment children has gone to the criminal activity and committed the crime .

In our country number of juvenile delinquent are increasing specially the lower economic group children who have lives in jhuggi jhopri .These are quickly contact with the criminal group because their parents go to the job and due to this they can not give proper care and protection of his children. Not only low income group of children but the high income group of children are also take part in criminal activities behind this their parent do not take proper care and time to children they are busy in our life and business.

Most of the section of the society believe that the age of criminal responsibility should be lowered and strict punishment should be imposed on the juvenile delinquents. Age should not

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<sup>2</sup> Crime In India 2013, National Crime Records Bureau, Ministry of Home Affairs, New Delhi

<sup>3</sup> Saumyata Panwar , Juvenile Delinquency Laws in India and Emerging Issues. Retrieved from <http://lex-warrior.in/2014/08/juvenile-delinquency-laws-in-india-emerging-issues>

be the defense for crime committed by the juvenile. Some group of person advocated that the maturity of juvenile is increased in present time. They understand better for their future and understanding increases due to cultures, media influence social awareness and follow the fashion of people. Some people wants to lowering the age of juvenile i.e. 18 to 16 years and juvenile will be tried as normal procedure of law .

The Juvenile Justice ( Care and Protection of Children ) Act 200 is one of the important legislation dealing with children in need of care and protection and children in conflict with law.

Juvenile or child means a person who has not completed eighteenth year of age.<sup>4</sup> It is clear that juvenile are those child who has not attained the age of 18 years. Juvenile Justice Act not discriminate between boy and girl child on the basis of age or gender.

Rapid population growth, unavailability of housing, lack of support, poverty, unemployment among youth, frustration ,overcrowding in poor urban areas, disintegration of the family, ineffective educational system are of the some pressures to young persons must deal with.<sup>5</sup> The severity of juvenile offences are generally determined by the cultural social and economic condition of the country. Juvenile offences are increasing day by day. The youth person below the age of 25 years are mostly committing the crime. Due to consequences of social and economic development most of the youth involvement in criminal activity.

As we know that the criminal is not born but made. The crimes are committed by the children are forced by the circumstances like poverty, population broken family, cultural conflict understand the nature and consequences of the act they do.

Belgium social statistician Adolphe Quetelet about two centuries ago observed that adolescents particularly young males are prone to crime , disorder and delinquency because of their childish impulsiveness or adolescent conflict. To quote him “ the propensity to crime is its maximum at the age when strength and passions have reached their height, yet when reason has not acquired sufficient control to master their combined influence”.<sup>6</sup>

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<sup>4</sup> Section 2(K) of Juvenile Justice Act 2000

<sup>5</sup> Juvenile Delinquency Retrieved from [www.org/esa/socdov/uny.in/document/ch07.pdf](http://www.org/esa/socdov/uny.in/document/ch07.pdf)

<sup>6</sup> Dr.N.V.Paranjape, Criminology and Penology, Central Law Publication ,Allahabad 2012 p. 570

Future of nation depends on youth generation. Children are most vulnerable group of the country. Children deserve compassion and bestowed with best care and monitoring because of tender age, immaturity. He is easily motivated by what he sees around him. It is his environment and social contest that provokes his actions.

In recently children have committing more crime and due to this Govt. and society having receiving more attention regarding that problem. If no proper growth of children the future will be dark of the Nation. Children are easily attracted to the temptations of life and lend in to criminality. It is said that child of today is the citizen of tomorrow. If the criminal tendency of children is not curbed timely they turn in to habitual criminal in the future life.

Juvenile Justice ( Care and Protection of Children ) Act 2000 has been enacted with a view to provide a comprehensive legislation for proper care Protection and treatment of the children for their development and friendly behavior of their matter adjudicated in the best interest of children.

The children criminal liability is a debatable issue in the area of criminal law. The main problem is the circumstances in which a child can be considered to be responsible for criminal act committed by him.

Children are considered to be doli-incapax or incapable of understanding the consequences of their action. The general proposition that the children below a certain age is incapable of distinguish between right and wrong. Section 82 of the Indian Penal Code completely makes in infant below 7 Years of age immune from criminal liability i.e. child below this age is considered doli- incapax in law. According to Section 83 of The Indian Penal Code nothing is an offence if it is committed by child aged between seven to twelve year if the child has not attained sufficient maturity to understand the nature and consequences of his act. Thus it is clear that child of 7-12 years is liable of his act if he has understand the nature and consequences of the act committed by him.

The question arise that the child above the age of 12 Years is liable of his act . The Juvenile Justice (Care and Protection of Children) Act 2000 protected the children below the age of 18 years who has committed the offence . Recently most of the juvenile are committed serious offences like rape, molestation, theft, murder or committing the offence of rape for satisfy his

lust or take the revenge . A debatable question arise if the juvenile committed serious offences are treated as adult crime and give adequate punishment. Society crying for the adequate punishment like adult crime. But differences between crime done by the adult criminal and crime done by the juvenile. A child does a wrong not knowing the consequences of the act done but the adult criminal commits crime with full understanding of nature and consequences . Due to this reason crime done by a young child cannot be adjudicated in the same line as a crime done by adult . For this every country has framed some special provision to eradicate juvenile delinquency from the society.

While generally treating eighteen to be the age till which a person could be treated to be a child, it also indicates that the same was variable where national laws recognize the age of majority earlier. In this regard, one of the other considerations which weighed with the legislation in fixing the age of understanding at eighteen years is on account of the scientific data that indicates that the brain continues to develop and the growth of a child continues till he reaches at least the age of eighteen years and that it is at that point of time that he can be held fully responsible for his actions. Along with physical growth, mental growth is equally important, in assessing the maturity of a person below the age of eighteen years.<sup>7</sup>

After the Delhi Gang rape case society crying for revisiting the Juvenile Justice Act 2000 to disseminate the age factor would not be ground for showing leniency for heinous crimes committed by juveniles.

When an offender the age of under 18 years commits murder or sexually abuses a member of women folk or brutally raped her in order to fulfill his sexual desire to my mind can be reformed. It is impossible to reform because the born attitude cannot be change by giving group counseling to him to get back the main stream .

There is a great deal of scientific evidence to establish that adolescence is a period in which the brain is continuously evolving and changing.<sup>8</sup>

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<sup>7</sup> *Salil Bali Vs Union of India and Another's*<sup>7</sup> W.P.(C) No. 10 of 2013, Retrieved from <http://online.wsj.com/public/resources/documents/SupremeCourt.pdf>

<sup>8</sup> The Hindu Magazine , Weekly Edition, Dated 2-11-2014

A teenager is unable to exercise self-control or exhibit the social and emotional maturity the way he may when he grows in to an adult , nor be able to evaluate the consequence of different options . This is compounded by the experience that many children are drawn in to crimes because of cruelty and neglect in the hands of adults, both those who are responsible for their protection and care , and those in the larger world . The truth is that a child's acts of violence are mostly located not in irreversible criminal resolve but in adolescent confusion and immaturity and in adult neglect and brutality .<sup>9</sup>

But the Juvenile Justice Act 2000 is protected the juvenile in conflict with law are urgent need to provide proper justice to society. Considering the criminal activities and attitude of committing crime by the juveniles. In my opinion if the juvenile perpetrator who commits a brutal offence akin an adult offender must be allowed to claim the juvenility and the govt. determine appropriate punishment but the main aim should be rehabilitation and reintegration of child in the society. Juvenile having committed a grossly adult crime it would not be tried as a major.

To main goals drive the nations juvenile justice system protecting both public safety and the welfare and rehabilitation of young offender who break the law. State juvenile justice policies require balancing these interests while also preserving the rights of juveniles.<sup>10</sup>

The juvenile justice system of any country depends upon the national judicial system. Juvenile justice system is specially designated to protect and promote the interest of children, The main aim of juvenile justice is to provide adequate opportunity so that a child may develop into a normal law abiding citizen.<sup>11</sup>

He Juvenile Justice ( Care and Protection of Children ) Act 2000 has given exclusive jurisdiction of children court while dealing with juvenile accused in respect of all offences and prescribe special procedure in the inquiry and trial of such cases.

Section 360 of the Criminal Procedure Code 1973 provides that a person below twenty one years of age is know as first offender and is not to be tried in a criminal court through the

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<sup>9</sup> The Hindu Magazine , Weekly Edition, Dated 2-11-2014

<sup>10</sup> Sarah Alice Brown,Trends in Juvenile Justice state legislations 2001-2011, Retrieved from [www.nesl.org](http://www.nesl.org)

<sup>11</sup> Dr. S.K. Chatterjee, Offences Against Children and Juvenile Offence, Central Law Publication Allahabad,2013 p.262

ordinary procedure. Rather he is to be dealt with and corrected through special methods of treatment under the law. The object is to segregate the young offender from hardened criminals and therefore this section. Categorically says that “nothing in this section shall affect the provisions of the Probation of Offenders Act,1958 (60 of1965) or any other law for the time being in force for the treatment , training or rehabilitation of youthful offender”.<sup>12</sup>

Juvenile in conflict with law are triable by Juvenile Justice Board not the criminal courts Section 27 of Criminal Procedure Code 1973 states that “ Any offence not punishable with death or imprisonment for life committed by any person who at the date when appears or is brought before the court is under the age of sixteen years may b e tried by the court of a Chief Judicial Magistrate or by any court specially empowered under the Children Act 1960 ( 60 of 1960) or any other law for the time being in force providing for the treatment ,training and rehabilitation of youthful offenders”.

The Juvenile Justice Act 2000 provides for establishment of Juvenile Justice Board for disposing the matters of Juvenile in Conflict with Law. Under Juvenile Justice Act during the pendency of the juvenile in conflict with law is placed in observation home in which juveniles are kept in three separate groups according to age i.e. 7-12 years, 12-16 years and 16-18 years giving due consideration to their physical and mental condition and the degree or gravity of the offence committed by them.<sup>13</sup>

Section 8 of JJ Act 2000 provides the establishment of observation homes for the temporary reception of the juvenile in conflict with law during the inquiry and trial of his case.

Section 9 of JJ Act 2000 provides Special Homes for juvenile who are found guilty of an offence. The main object of Special Home is to provide for rehabilitation of the juvenile whose guilt has been proved. The Juvenile in special homes are classified in different categories according to their age, gravity and nature of the offence, physical and mental health condition etc. and are kept separately.<sup>14</sup>

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<sup>12</sup> Dr. S.K.Chatterji supra p.261

<sup>13</sup> Section 8(4) of Juvenile Justice Act 2000

<sup>14</sup> Section 9(4) of Juvenile Justice act 2000

According to section 10(1) of the Juvenile Justice Act 2000 as soon as a juvenile in conflict with law is apprehended by police he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board without any loss of time within a period of twenty four hours of his apprehension excluding the time necessary for the journey, from the place where the juvenile was apprehended to the Board, provided that in no case a juvenile in conflict with law shall be placed in a police lock-up or lodged in jail.

Placement of a juvenile in a Special home is under the law restricted to a period of 3 Years. During the stay in the special home a juvenile should be able to avail of education or vocational course depending upon the child's aptitude as also facilities for sports and co-curricular activities such as music, painting reading drama, yoga etc..An incarcerated juvenile must benefit from his stay in a special home as otherwise his detention will amount to punishment and the object of juvenile legislation will be defeated.<sup>15</sup>

The Supreme Court of India, in judgment delivered in July 2013 and March 2014 supported the position that all children accused of crimes must be tried under juvenile justice laws. In the *Salil Bali Vs Union of India and Another's*<sup>16</sup> W.P.(C) No. 10 of 2013, the Court Stated that “the age of 18 has been fixed on account of the understanding of experts in child psychology and behavioural patterns that till such an age the children in conflict with law could still be redeemed and restored to mainstream society”.

The purpose of punishment especially of a child offender, should be to facilitate his reform, not to take revenge on him. But a jail is not a place in which a young adult will learn responsible citizenship, instead it is more likely to be tutor and induct him into adult crime. The amendments therefore pave a course that would render the adult world not safe but more insecure and uncaring.<sup>17</sup>

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<sup>15</sup> Maharukh Adenwalla, Child Protection and Juvenile Justice System for Juvenile in Conflict with Law, Childline India Foundation, Mumbai 2006 p.70

<sup>16</sup> Salil Bali Vs Union of India and Another's<sup>16</sup> W.P.(C) No. 10 of 2013, Retrieved from <http://online.wsj.com/public/resources/documents/SupremeCourt.pdf>

<sup>17</sup> The Hindu Magazine, Weekly Edition, Dated 2-11-2014



Bail is the right of the juvenile in every case. According to Section 12(1) of the Juvenile Justice Act 2000 juvenile should be released on bail as a general rule and should be sent to jail only in special cases . Bail can be granted in every case even by the officer in- charge of the police station. The police were obligated to place a juvenile only in the observation home and not in a place of safety. Bail can be refused to the juvenile by the board only for the such reasons-

- (i) Juvenile could not be released on bail if such release exposed him to moral, physical or psychological danger
- (ii) The release of juvenile is likely to bring him in to association with any known criminal.
- (iii) His release would defeat the ends of justice.

The Supreme Court in *Gopinath Ghosh Vs State of West Bengal*<sup>18</sup> observed that when a juvenile is brought before the juvenile court( Now Juvenile Justice Board under JJ Act 2000) and in the opinion of the court after release on bail he is not likely to fall in company of hardened or known criminals or exposed to physical, mental or psychological danger or his release is not going to result in failure of justice, the bail should be granted to him and he should be released.

Juvenile Justice system emphasis on future of the juvenile rather than on punishment for past misdemeanors. Juvenile Board passed an order after inquiry for reformation and rehabilitation to the juvenile this is the main intent of the Juvenile justice system.

When on inquiry the board is satisfied that the juvenile has committed an offence, the juvenile board has passed the following orders

- (i) the juvenile to go home after advise or admonition
- (ii) Direct the Allow juvenile to participate in group counseling and similar activities
- (iii) Order the juvenile to perform community service
- (iv) Fine, if he is over fourteen years of age and earns money
- (v) Direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person for not exceeding three years

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<sup>18</sup> (1984) SCC (Cri) 478

(vi) Make an order directing the juvenile to be sent to a special home for a period of three years.

According to Section 16 of JJ Act 2000 Juvenile Justice board can not make the order against the juvenile who is found guilty of an offence

- (i) an order awarding death sentence or
- (ii) an order awarding the sentence of imprisonment for life
- (iii) an order for imprisonment in default of payment of fine
- (iv) an order for imprisonment in default of furnishing security

The purpose of these provision is to prevent the juvenile from contamination and stigmatisation.

Juvenile justice system emphasis on future of the juvenile rather than on punishment for past misdemeanors . After inquiry the J JBoard passed and order to reformation and rehabilitation of the Juvenile. This is the main intent of juvenile justice system.

The Supreme Court in *Salil Bali Vs Union of India and Anothers*<sup>19</sup> held that the age should not be hampered with and rejected to lower the age. The court observed that The age of eighteen has been fixed on account of the understanding of experts in child psychology and behavioural patterns that till such an age the children in conflict with law could still be redeemed and restored to mainstream society, instead of becoming hardened criminals in future. There are, of course, exceptions where a child in the age group of sixteen to eighteen may have developed criminal propensities, which would make it virtually impossible for him/her to be reintegrated into mainstream society, but such examples are not of such proportions as to warrant any change in thinking, since it is probably better to try and re-integrate children with criminal propensities into mainstream society, rather than to allow them to develop into hardened criminals, which does not augur well for the future.

The age of 18 has been fixed as a threshold of adult responsibility for crimes because experts in child psychology have found that , until such an age , children in conflict with law could still be redeemed instead of becoming hardened criminals in the future.<sup>20</sup>

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<sup>19</sup> Retrieved from <http://online.wsj.com/public/resources/documents/SupremeCourt.pdf>

<sup>20</sup> The Hindu Magazine , Weekly Edition, Dated 2-11-2014

## Conclusion

Juvenile justice is based on the principle of reformative justice and not an retributive justice. Thus any law is good or bad as its enforcement . The Juvenile Justice Act 2000 is the best law for the care and protection of children. Juvenile justice system tries to wipe out the delinquency problem with the help of reformation instead of punishment. But it should kept in the mind by the reformatory agencies the problem will get a solution if the reform only to the delinquent child, but the society has change our mind for this purpose. The nature and character of child depends upon the nature and character of his parents. The parents nature depends upon the society . Thus we should change or reform the whole society regarding the delinquent juvenile etc. Children need to be protected if the civilization has to progress in the right direction . Juvenile justice is based on the principle of reformative justice and not an retributive justice. Child should be dealt with a soft way and opportunity should be given to children to reform and rectify himself .

Rights of children need to be protected if the civilization has to progress in the right direction. Sensitization of those who are given the responsibility of protecting interests of children is urgently required.<sup>21</sup>

Several Supreme Court rulings mandate that child offenders should be ensured opportunity to realise their mistakes and rebuild their lives . A child , even when he loses his way merits adult protection , nurturing and guidance , not our condemnation, retribution and cold punishment.<sup>22</sup>

Thus we conclude that today's children are tomorrow's citizens. A single accident may turn the life of child to destruction, violence instability and danger to the society, if he has not been treated with care and caution. The children became a good, obedient and loyal citizen take part in the nation building if they have proper care attention and training. Our liability to rescued becoming hardened ones to children. This can be achieved to the education, moral, religious and secular training treatment and correction and rehabilitation of the child. In the member of the

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<sup>21</sup> Dr. K. P .Singh , Juvenile Justice in India Implementation Barriers , Indian Police Journal, April- June 2011 p.105-110

<sup>22</sup> Harsh Mander, Unfair Trials, The Hindu Magazine , Weekly Edition, Dated 2-11-2014 p.2

society it is paramount importance to us we must devote full attention to ensure that the children are properly cared for so they have go to rightful place or direction in the society. For this we have spread awareness on the problem faced by all of us in the society.