



---

**JUVENILE JUSTICE SYSTEM IN INDIA AN ANALYSIS OF LEGISLATIVE POLICIES  
JUDICIAL DEVELOPMENTS AND SOCIETAL PERCEPTION WITH SPECIAL REFERENCE  
TO UTTAR PRADESH**

---

Malay Srivastava, Research Scholar

Department of law

Shri Ramswaroop Memorial University

Email-malay1589@gmail.com

Dr Shashank Shekhar, Associate Professor,

Department of law

Shri Ramswaroop Memorial University, Lucknow.

Email-shashanklaw12@gmail.com

**ABSTRACT**

The fundamental rationale for developing the Juvenile Justice System was the recognition that young individuals are more susceptible than adults and more receptive to rehabilitation. The number of offenses perpetrated by juveniles has consistently risen over the past decade. However, the infamous "Nirbhaya Gang Rape Case" involved a juvenile accused who was only a few months away from turning 18 years old. Due to the demonstrations, the Juvenile Justice (Care and Protection of Children) Act, 2015 was enacted. This law allows for the prosecution of individuals between the ages of 16 and 18 who commit serious crimes to be treated as adults and receive the harshest possible punishment. Imprisoning young individuals and subjecting them to a criminal environment at a vulnerable age will likely lead them to become criminals. Conversely, offering counseling within the correctional system would be beneficial, increasing the likelihood that they do not engage in criminal behavior again. In order to address the issue of juvenile delinquency, it is crucial to implement measures that are equitable and considerate of the age and developmental psychology of young individuals. Prior to revising the current legislation, it is important to do a comprehensive analysis of the legal precedents and underlying philosophies, as well as evaluate the consequences of the existing law. Modifying the current legislation, in light of the widespread public indignation towards a minor, would pose risks and deny these young individuals access to the necessary rehabilitative programs that aim to reform and rehabilitate them.

**KEYWORD:** *Juvenile, Rehabilitative, Delinquency, Psychology, Legislation*

---



## 1. INTRODUCTION

Juvenile delinquency is a significant issue of deviant behavior that youngsters in nearly all contemporary countries throughout the world are experiencing. The child's non-conformist behavior is indicative of both personal disorganization and a symptom of social breakdown. This problem has long been regarded as a significant concern for all segments of society throughout history, manifesting in many ways. Morrison (1991, pp. 88-89) asserts that juvenile delinquency is a significant societal issue in the present era. He criticizes this phenomenon as a particularly unpleasant consequence of more liberty, involving adolescent individuals of both genders who engage in drug use, theft, rioting, and even murder purely for their own amusement. India has a population of over one billion people, with around one-third being children under the age of 18. India has the highest number of children in the world, with roughly 440 million. Additionally, India also has the biggest population of vulnerable children, with nearly 44 million of them facing challenging situations. In India, there has been a rise in both juvenile delinquency and crimes perpetrated against children (Sharma, 2010, pp.329-350). From a historical perspective, this issue dates back to the inception of human society. To comprehend the ongoing nature of the issue, it is necessary to reproduce the quotations by Edward Stullken (1956, p.6) here. In his article, he stated that approximately 6000 years ago, an Egyptian priest inscribed on the walls of a tomb, expressing his belief that the world was nearing its end due to the declining obedience of children towards their parents.

These quotes unequivocally demonstrate that aberrant behavior in youngsters has long been a significant threat to any community. However, in order to address such aberrant behavior, every civilization has implemented effective mechanisms of social control through suitable norms, values, and regulations. However, regardless of these factors, the violation or deviation from the established standard continues to be a significant worry for all societies. Crime refers to the act of violating established laws and standards by an adult. However, when a young person below a specific age engages in such violations or deviations, it is referred to as Juvenile Delinquency.



## **1.1 CAUSES OF JUVENILE DELINQUENCY**

Healy and Bronner (1917, pp.72-79) argue that there is no singular cause or straightforward explanation for the emergence of delinquent behavior. They identify various factors that contribute to juvenile delinquency, including association with negative peers, adolescent instability and impulsive behavior, early sexual experiences, mental conflicts, susceptibility to social influences, a desire for adventure, exposure to motion pictures, dissatisfaction with school, lack of recreational opportunities, involvement in street life, dissatisfaction with vocational pursuits, sudden impulses, and various physical conditions.

Juvenile delinquency can be categorized into three primary factors: (A) Social variables, (B) Other socio-economic and environmental elements, and (C) Personal or individual characteristics

- **Social factors**

The family background exerts a significant impact on the development of juveniles. The family unit is responsible for instilling norms, values, patterns of behavior, and other imprints in a kid. These influences shape the child's personality, beliefs, and attitudes, forming an internalized "blueprint". When families have anti-social and criminal norms, both laypersons and specialists concur that this might result in a clear and noticeable outcome: the presence of criminal dysfunction and deviant behaviors within certain families. Marital instability is linked to delinquency, meaning that children who experience a discordant marital environment characterized by stress, estrangement, coldness, and unhealthy boundaries are more likely to engage in delinquent behavior.

- **Disrupted households**

The household may be disrupted by the demise of one or both parents, or by an extended period of illness, mental instability, disfigurement, or divorce. Engaging with others inside the household is a crucial method for fostering the child's socialization. The mother plays a crucial role in this matter. The child's growth will be impacted if the mother divorces, abandons, or passes away. A child in such a situation not only lacks the affection of their mother, but also



lacks parental guidance and becomes vulnerable to negative influences from society. It cannot be definitively stated that a broken household always results in delinquent behavior on the part of the children.

- **Poverty**

A significant majority of juvenile delinquents originate from impoverished households. Professional scholars of juvenile delinquency generally, though not unanimously, acknowledge that the overwhelming majority of delinquents originate from the lowest socioeconomic level. Due to poverty, it is necessary for both parents to spend extended periods of time away from home in order to earn a living. The children will be neglected by them. These children may intentionally or unintentionally collaborate with criminals and become delinquents. This primarily occurs in impoverished areas and communities predominantly inhabited by the working class.

## **2. OBJECTIVES OF THE STUDY**

1. To have a more comprehensive comprehension of the origins and development of India's juvenile justice system
2. To identify and address the issues present in various jurisdictions about their respective juvenile justice systems, and to implement the appropriate legal measures to fix these difficulties.
3. To examine the legal approach in order to address this issue

## **3. RESEARCH METHODOLOGY**

Adopting doctrinal methodologies has been done to examine the issues related to the Juvenile Justice system and explore genuine possibilities for its change. A descriptive and analytical study design has been developed to draw the necessary inferences and conclusions, keeping the core problem in focus. The objective of this research is to perform a thorough and qualitative examination of the Statutes, Regulations, case laws, and other legal documents in order to



identify and define the fundamental theme and the connection between different laws pertaining to the subject matter. Given the doctrinal character of this research, primary data has been utilized. For the purpose, relevant articles, books, journals, and other sources have been consulted. In addition to examining the progress and significant provisions of the Juvenile Justice System in India, this Study also evaluates the statistical data obtained from the National Crime Records Bureau and current patterns in juvenile delinquency.

## **4. DISCUSSION**

### **4.1 JUVENILE JUSTICE ACT, 2000**

The Act was enacted in 2000 with the intention of protecting children. The mentioned was changed twice, once in 2006 and again in 2011. The change was developed to close the gaps and loopholes in implementation.

Furthermore, the increasing number of juvenile crime cases in recent years, as well as the heinous "Delhi Gang Rape Case," has compelled lawmakers to enact legislation. The main disadvantage of the Act was that it contained ill-equipped legal measures, and the failing juvenile system was also a major factor in preventing juvenile crimes in India. The act was soon replaced by the Juvenile Justice (Care and Protection) Act of 2015.

The current juvenile justice system in India

Like other countries, India has developed legal measures that explicitly address the rights and protection of juvenile offenders in order to combat the problem of juvenile delinquency. The Juvenile Justice System in India is based on three major assumptions:

- Young criminals should not be tried in court, but instead be corrected in the best possible methods.
- Rather of being punished by the courts, they should be given the opportunity to reform.
- Children in dispute with the law should receive non-penal treatment through community-based social control institutions, such as Observation Homes and Special Homes.



## Juvenile Justice Act, 2015

The Juvenile Justice Act of 2015 updated the Juvenile Justice Act of 2000, recognizing the need for a more strong and effective justice system that emphasized both deterrence and reformative techniques. The attitude to juveniles should differ from that of adults; there have been arguments in Parliament that juveniles should be given more space for transformation, reformation, or betterment, which can only be accomplished with a specific justice system. Thus, the new laws, the Juvenile Justice (Care and Protection of Children) laws of 2015, emphasized a juvenile-friendly approach to adjudication and resolution of problems.

Some of the salient features are as follows:

1. Section 2 (12) of the Juvenile Justice (Care and Protection of Children) Act, 2015 defines a child as a person under the age of 18. The term 'Child' is classified under the Act as "Child in need of care and protection" and "Child in conflict with the law" in Section 2 (13) of the Juvenile Justice (Care and Protection of Children) Act, 2015.
2. Offenses were divided into three categories: heinous, serious, and minor. There have been stipulations made about juveniles between the ages of 16 and 18; if they commit a crime, they can be prosecuted as adults after a thorough examination of their mental competence.
3. Juvenile courts were established to handle only juvenile offenses, similar to NDPS and POCSO courts.

The 2015 Juvenile Justice (Care and Protection of Children) Act, 2015 expanded the concept of 'Child in Need of Care & Protection' to include the following points:

- Children whose guardians or parents are unfit or uninterested in caring for them.
- Workers who violate labor laws.
- Those who are about to marry before reaching the legal age.
- The Act defines adoption and recognizes the rights of adopted children.



The goal is to consolidate the laws relating to children who have been accused and found to be in conflict with the law, as well as children in need of care and protection, by catering to and considering their basic needs through proper care and protection, development, treatment, and social integration, and by adopting a child-friendly approach in the adjudication and disposal of matters in the best interests of children. The statute also focuses on rehabilitating young offenders through various child care facilities and institutions. The Act's most important subjects include the following:

### **1. Claim of Juvenility**

The first and most contentious issue among the legal community and socialists is the "claim of juvenility". The Juvenile Justice Board will decide on the claim of juvenile status. The Board must decide the juvenility allegation prior to court proceedings, although it can be raised before the court at any stage of the proceedings, including after the Board has resolved the matter. To determine the claim of juvenility, the Board had to apply Rule 12 of the Juvenile Justice Rules of 2007. In the case of *Kulai Ibrahim v. State of Coimbatore*, the Court remarked that the accused has the right to raise the issue of juvenility at any time throughout the trial or even after the matter has been resolved under Section 9 of the Juvenile Justice Act, 2015.

In the case of *DeokiNandanDayma v. State of Uttar Pradesh*, the court ruled that an entry in the school record specifying the date of birth of a pupil is acceptable evidence in calculating the age of a juvenile or demonstrating whether the accused is a juvenile or a child.

In the case of *Satbir Singh and others v. State of Haryana*, the Supreme Court emphasized that the Juvenile Justice Board will consider the date of birth recorded in the school records while determining whether or not the accused is a juvenile.

In *Krishna Bhagwan v. State of Bihar*, the court declared that for the purpose of trial under the Juvenile Justice Board, the relevant date for determining the juvenile's age should be the date the offence was committed.



However, in the case of Arnit Das v. State of Bihar, the Supreme Court reversed its prior decision and concluded that the date to decide a claim of juvenility should be the date the accused is brought before the appropriate authorities.

## **2. Juvenile Justice Board**

A Board shall be formed for the purpose of investigating and hearing juvenile cases that are in disagreement with the law.

The Board shall consist of the Principal Magistrate and two social workers, one of whom must be a woman. According to the Act, the Board may never govern or operate from ordinary court grounds. The decision of the Principal Magistrate shall be final.

Special Procedure of the Juvenile Justice Board:

The Act established a mechanism for dealing with juvenile offenders. The following are the primary special procedures:

1. The proceedings cannot begin based on a complaint registered by the police or civilian.
2. The hearing must be informal and totally secret.
3. Offenders should be placed in an Observation Home after confinement.
4. Lady Magistrate will conduct trials for juveniles in conflict with the law.
5. When the Board is not in session, a child in dispute with the law can be brought before an individual member.

## **3. Causes of Juvenile Delinquency.**

Research and studies suggest that there are several causes of juvenile delinquency in India. Everyone has various behavioural tendencies, and this is especially true for children. Behavior patterns emerge in early childhood, making it difficult to distinguish any type of behavior. However, as a child grows older and enters the real world, their behavior patterns vary from time





to time, and a variety of conditions or situations may trigger delinquent behavior. The following are some of the reasons of juvenile delinquency.

- Adolescent instability is influenced by biological, psychological, and societal factors that impact behavior patterns. Teenagers become more mindful of their looks and fashion, as well as their happiness, food, and play. At this age, children desire independence and freedom, but lack opportunities from parents, teachers, and elders, which can lead to anti-social behavior. Thus, antisocial behavior, biological changes, and psychological causes are some of the factors contributing to adolescent delinquency.
- Juvenile delinquency rates are mostly caused by family disintegration and lack of parental control. Divorce, loss of parental authority, and a lack of love and affection are the most common causes of adolescent misbehavior.
- Poverty and poor economic conditions can lead to increased juvenile crime. When parents or guardians fail to meet their children's needs, they may turn to stealing to satisfy their desires. And thus develops a habitual tendency to steal, resulting in large-scale thievery.
- Migration of destitute juvenile boys to slums exposes them to anti-social groups and illicit activities such as prostitution and drug smuggling. These kind of activities are quite appealing to juveniles, and they may participate in them.
- Children who have undergone sex assault or other unwanted physical abuse in early childhood may develop unpleasant behaviors and attitudes. At this age, individuals may become more vagrants or seek sex experience. Too much sex variance may encourage boys to commit crimes such as kidnapping and rape.
- Children and adolescents struggle to adapt to modern lifestyles due to rapid societal changes. They face cultural tensions and struggle to distinguish between good and wrong.

#### **4.2 Legal Definition of Juvenile**

The phrase "Juvenile" refers to a youngster who, unlike an adult, cannot be held criminally accountable since he has not reached the requisite age. Varying countries have varying standards

---



for what age a person is deemed a juvenile. The Probation of Offenders Act restricted the imprisonment of anyone under the age of 21. The Juvenile Justice Act of 1986 designated a boy under the age of 16 and a girl under the age of 18 as a "juvenile". The Juvenile Justice Act of 2000 established a consistent maximum age of 18 years for boys and girls to be classified as "juveniles". The Juvenile Justice Act of 2015 authorizes a Juvenile Justice Board to evaluate whether a person under the age of 18 but over the age of 16 can be tried as an adult, while also defining a "child" as someone under the age of 18.

### **4.3 NIRBHAYA CASE.**

In the case of Mukesh v. State NCT of Delhi, a paramedical student was gang-raped and murdered in New Delhi in December 2012 (Mukesh v. State NCT of Delhi). Because one of the accused was 17 years old at the time of the crime, the rapist was not dealt with harshly in comparison to other rapists, who were sentenced to death. The Juvenile Justice Board report found no evidence that he was the most vicious offender.

After nearly three years in the correctional facility, Nirbhaya's family demanded that the juvenile's identity be made public a month before his release. Intelligence officials suspected him of radicalization because he shared a cell with another juvenile involved in the Delhi High Court blast in 2015.

### **4.4 Amendments to the Juvenile Justice Act, 2015**

- The Delhi gang-rape case triggered significant changes in India's criminal system. Following the release of the juvenile defendant in Nirbhaya, the Rajya Sabha passed the Juvenile Justice Bill of 2014. The Juvenile Justice Act 2000 was repealed by the Indian government on January 15, 2016. These acts shield minors from harsher sanctions imposed by judicial districts and higher courts if they violate the law.
- This Act consolidates and changes the law for children in need of care and protection, addressing their basic requirements via growth, therapy, and social reintegration using child-friendly ways. One of the primary goals of passing the amendment was to reduce



the severe crimes perpetrated by minors between the ages of 16 and 18, including rape.

Here's a quick overview of the Juvenile Justice Act 2015.

- Accused minors over 16 should appear before the Juvenile Justice Board. The Board will then determine whether to proceed with the trial as an adult or to place the youngster in rehabilitation. The decision is based on the child's physical and mental ability.
- According to the Juvenile Justice Act, a youngster aged 16-18 is considered an adult if they commit a severe offense. A minor who has committed a significant offense may be tried as an adult only if he is caught after the age of 21.

If a kid commits a significant criminal and is captured before the age of twenty-one, he or she faces a maximum sentence of three years in a special home with counselling.

If a kid is captured after the age of twenty-one for a major offense, they will be prosecuted as adults and sentenced to up to seven years in jail.

If a minor commits a severe crime at the age of 17, they may be tried as either children or adults. The penalty is determined by an assessment of their mental and physical abilities.

If the minor committed the terrible act and was arrested after the age of 21, the case will be tried as an adult, and a 7-year jail sentence is imposed.

- A new clause on fair trial has been included, requiring assessment.
- Ensure a fair trial in a child-friendly environment, taking into account the child's specific needs.
- Juveniles will not get life imprisonment or death sentences.
- The investigation should be completed within four months of the child's first appearance before the Juvenile Justice Board. This can be extended for up to two months provided the reason is stated in writing.
- Within 60 days of the child's first appearance before the juvenile justice board, the evaluation of the heinous offense should be completed.



#### **4.5 Persuasive Solution for Conflict in Justice**

The increasing number of criminal offenses committed by minors raises concerns. There are various apparent faults in the current juvenile justice act.

Juveniles who are fully capable of grasping their own actions and feelings reflect the evil in society. While good people don't need regulations to live peacefully, bad people will find a way around them. The

The system of exploiting adult and capable individuals who are, in the eyes of the law, juveniles to commit crimes appears to be profitable for the worst aspects of society.

Article 21 of the Indian Constitution provides every citizen the right to live a life of peace and dignity. By shielding a youngster who is fully aware of the consequences of his behavior, the Centre risks infringing on that fundamental right by protecting a subset of criminal inclinations. Because a juvenile criminal's identity and relationship to an offence cannot be determined, the offender, if not reformed, has the potential to pose a harm to society in the future.

Keeping all adolescent defendants in the same class would increase the influence of criminal inclinations. Those who have exploited this loophole, such as the juvenile in the Delhi Gang Rape case, may have a harmful impact on the psyche of passive individuals, infecting their brains with criminal tendencies. Those who oppose the reduction of the juvenile age believe that different levels of accountability and punishment should be applied to maturing teenagers based on their psychological makeup. This, on the other hand, is a contentious but realistic approach that may benefit society, at least in the current circumstances, when the urgent need to correct and regulate clotting loopholes is enormous. Adoption and adaptation of the jurisprudence that the law of the United States and the United Kingdom, among other nations, follow, in which minors are sentenced for the seriousness of their offenses while taking into account the individual's intellectual and emotional development, would be a step toward correcting such a flaw in current conditions.



The ultimate purpose of the juvenile justice system is to rehabilitate rather than eliminate criminals from society. Natural justice (the safeguarding of basic/natural/human/fundamental rights) and personal liberty serve as the foundation for such safeguards. While committing the depravity of sin, a person capable and mature enough to understand his actions and their consequences conceals himself beneath the false sheath of law, violating jus naturale. The holistic approach should be avoided due to the inadequacy of correctional facilities to accommodate the growing number of juvenile offenders. If the rehabilitation process fails, as it does in the country's current socioeconomic circumstances, a change in strategy is essential. The author's arguments do not advocate the imprisonment of innocent souls; however, the emotional and mental growth of the juvenile, as well as the social psychology of the juvenile, must be considered prior to the strict application of a loosely defined law.

## **5. CONCLUSION**

The intensity and severity of juvenile offenses are determined by the economic, social, and cultural conditions of society. Unemployment and socio-economic instability can contribute to the participation of juveniles in criminal behavior. In addition to the breakdown of families, parental neglect, urbanization, illiteracy, poverty, and inadequate social security regulations also play a role in the development of delinquent behavior in young people. The JJA 2000 failed to achieve the stated objectives due to a focus on legislative actions and ineffective executive measures. The widely known Nirbhaya case in 2012, which included a minor, caused widespread public anger and led to the enactment of the Juvenile Justice Act of 2015 by the Central Government. This law lowered the age of juveniles from eighteen to sixteen years, allowing them to be prosecuted as adults for severe crimes. This amendment has had an impact on other adolescents who require reformatory and rehabilitative interventions. Despite the alarming increase in juvenile crime, it is important to consider the intentions of the legislature and international conventions. Therefore, a reformatory approach that considers neurological and psychological factors influencing juvenile criminal behavior should be adopted.



## REFERENCES

1. Wroblewski M, Henry, (2000), „An introduction to law enforcement and criminal justice“, Thomson learning, U.S.A, pp-540-541
2. Laxmikant Pandey v. Union of India, AIR 1992 SC 118
3. Walsh Vincent (2011), Supreme Court on Children, HRLN, New Delhi, p. 458
4. Walsh Vincent (2011), Supreme Court on Children, HRLN, New Delhi, p. 458
5. Lansdown, Gerison (2011), „Every Child's Right to be Heard. London“, Save the Children U.K, UNICEF
6. Dr. G. Sheela, A. C. (2015) „A Study of Attitude Towards Education of Juvenile Delinquents“, International Journal of Interdisciplinary Research, p.67
7. Proceeding of the Constituent Assembly of India, 25th November, 1949, Published by Lok Sabha Secretariat, New Delhi.
8. National Crime Record Bureau Report 2014 available at <https://ncrb.gov.in/sites/default/files/Statistics/Statistics%202014.pdf> (browsed on 30/09/2020)
9. United Nations Standard Minimum Rules for the administration of Juvenile Justice (“The Beijing Rules”) available at <https://www.ohchr.org/documents/professionalinterest/beijingrules.pdf> (browsed on 12/06/2021)
10. Declaration of the Rights of the Child, 1959 available at <https://www.humanium.org/en/declaration-rights-child-2/#:~:text=In%201959%2C%20the%20United%20Nations,fundamental%20principles%20of%20children's%20rights> browsed on 11/08/2020
11. Street Children“, Friends of Salam Balak Trust available at <https://www.friendsofsbt.org/street-children> browsed on 08.02.2021
12. The State of the World’s Children“, UNICEF’s flagship report – the most comprehensive analysis of global trends affecting children, available at <https://www.unicef.org/reports/state-of-worlds-children>, browsed on 10.02.2021



13. V.R. K. Iyar, “Jurisprudence of Juvenile Justice: A preambular perspective”, quoted in article “Right of Child and Child Labour: A Critical Study” by Srinivas Gupta. JILI, XXXVII (1995) p. 531.
14. M.C.Mehta v. State of Tamilnadu, AIR 1997 SC 701.
15. BandhuaMuktiMorcha v. Union of India & Ors. (1997) 10 SCC 549
16. The History of Juvenile Justice”, ABA Division for Public Education, Dialogue on Youth & Justice, available at [https://www.americanbar.org/content/dam/aba/administrative/public\\_education/resources/DYJfull.pdf](https://www.americanbar.org/content/dam/aba/administrative/public_education/resources/DYJfull.pdf), browsed on 04/04/2021