

## **“Juvenile Justice: A General Overview”**

*Aarizoo Javaid Rather*  
*University of Kashmir*

“Humanity has the stars in its future, and that future is too important to be lost under the burden of juvenile folly and ignorant superstitions”.

At the outset it would be desirable rather pragmatic to state that nobody is a born criminal and nobody wishes to be a criminal, rather it is the circumstances which mould a person to take up a path which leads to no good.

The English proverb, ‘Nip the evil in the bud’ and ‘hate the sin and not the sinner’ are known to everybody and it is in these proverbs where there lies the base of the juvenile justice. A juvenile delinquent or a juvenile in conflict with law or a juvenile who needs care and protection or whatever suffixes or prefixes are affixed to it, is a child nonetheless and should be dealt accordingly. The juvenile delinquents are a product of situations and circumstances surrounding them be it bad homes, poverty, child labour, unpaid labour and situations akin to these. As has been aptly said by Brandii Dollar, “these are not juvenile delinquents. These are children who have been taken from homes that were bad for them”.

Juvenile justice is a system of law, policies and procedures which are aimed at regulating the processing and treatment of non adult offenders for violation of law. It is system which is intended to not only curb the criminal activities of juveniles but also to maintain public safety, skill development, habilitation, rehabilitation addressing treatment needs and successful reintegration of youth into community. A juvenile is a person who is below 18 years of age or who is incapable of taking decisions with the full usage of his capacities and a juvenile delinquent is a person who is alleged to have committed an offence. Edger Friedberg has quoted that ‘juvenile delinquency serves many purposes, including that of providing sadistic adults with fantasies suited to their special tastes.’ Therefore, in order to prevent these juvenile delinquents from becoming hardened criminals it is necessary to nip the evil in the bud and that they should be dealt in such a way which will take the crime out of their minds and at the same time letting them be the innocent children that they are. Juvenile justice system should be such which would allow the juveniles be who they are after taking out the criminal tendencies. Juveniles should not be dealt in a manner in which adult offenders are dealt with; it is the sin which is to be curbed and not the sinner. A juvenile offender is an outcome of the society and thus not just the juvenile but also the society is to looked upon. It is the society which at large is responsible for the creation of juvenile delinquents. Juveniles are often used as pawns to give the shape and to materialize the criminal activities, which usually are a brain child of some adults. Children are an easy prey for such adult offenders and with their aid they can successfully achieve their ill goals at a low cost and without the fear of being caught. Thus the first and the foremost duty of the

people dealing with juvenile delinquency is that they should identify the sources from which the crime emanates and should deal with the source so that the evil bud is nipped at earliest and that no more innocent children fall prey to their criminal tactics. Juvenile delinquents are also a product of bad homes; it is either one or both of their parents who are primarily responsible for their tendencies. It is said that children are the best imitators. They learn by imitating. If the parents of a juvenile are an offenders, it is most probable that his children will take up the habits and in certain cases the parents often engage in constant fights, arguments or domestic violence and the children being witness to such activities tend to do the same. The bad homes often take a toll on the psyche of the young children and they tend to be the offenders. Thus, to prevent such children from falling prey to such activities, the authorities must identify such homes and make sure the children are being taken care of. Another important factor which leads to the juvenile delinquency is the peer pressure. As already mentioned that children are the best imitators they tend to imitate what their mates or peers are doing. Just to be a part of the group and not to feel left out they tend to do whatever their mates are doing and often end up in a bad position. The minds of the children are very fertile and as such they learn everything quickly and that remains with them for their life. Thus, in order to curb such activities, schools and the concerned authorities should make sure that they are well aware of the activities happening on campus and off campus activities should be looked upon by the authorities with aid from the social groups such as NGO,s. Even the members of the society should be vigilant about the activities that their children are engaged in. yet another factor which greatly contributes to the juvenile delinquency is the pressure put by the parents and society on the children to live upto their expectations. Children are often pressurized to fulfill the expectations of their parents without taking into consideration the mental capacity and capability of the children. As such when these children fail to live upto the expectations of their parents they consider themselves to be the failures and tend to take up such activities which become the base for their delinquency. Such activities include taking drugs to enhance their performance and it is these drugs which introduces them to the dark criminal world. Furthermore, society has set up certain standards of beauty, intelligence, success etc which if not compiled by anyone is looked down upon and treated as a third class citizen. Setting up of such standards lead to bullying of those who cannot live upto such standards, which in turn results either in the formation of rival groups who are ready to harm each other or for the sensitive children, it can lead to self harm or harming others. Thus, every now and then children are put in a situation which can easily lead them to becoming child delinquents and it is pertinent to mention here that the first thing to rectify the juvenile delinquents is to rectify the society, so that no habitual offenders or novice offenders are produced. Therefore, all the buds which foster juvenile delinquency are to be nipped and a juvenile should not be hated or dealt as criminal, it is his crime which is to be hated and curbed rather than looking down upon the delinquent and such steps should be taken which would enhance their reintegration into the community.

The often used term juvenile delinquent is currently known with the nomenclature ‘juvenile in conflict with law’ in the Indian context. The important legislation which deals with juvenile justice in India is the Juvenile Justice (care and protection) Act, 2000 under which the different aspects of juvenile justice are discussed. It is this legislation according to which the juvenile delinquents and children who need care and protection are dealt with. Under this Act, a juvenile is defined under section 2(k), as a ‘juvenile’ or ‘child’ is a person who has not completed 18 years of age and juvenile in conflict with law is defined under section 2(l) as a juvenile who is alleged to have committed an offence. According to Britannica, juvenile justice is system of laws, policies, and procedures intended to regulate the processing and treatment of non adult offenders for violations of law and to provide legal remedies that protect their interests in situations of conflict or neglect. Punishable offenses that are classified as criminal offenses for adults (e.g., murder, robbery, and larceny) are referred to as delinquency when committed by juveniles, whereas juvenile offenses mandating legal intervention only (e.g., alcohol and tobacco use, truancy, and running away from home) are referred to as status offenses. Children are also subject to specialized laws, procedures, and policies designed to protect their interests when parents or other legal guardians are unavailable, negligent, or involved in custodial dispute and juvenile court, also called children’s court is a special court handling problems of delinquent, neglected, or abused children. The juvenile courts fulfill the government’s role as a substitute parent, and, where no juvenile courts exist other courts must assume the function. The juveniles lack mens rea, or criminal intent. At such a young age, it also held that they lack the ability to judge between right and wrong, or they are treated as *doli incapax*, therefore, they should be dealt with accordingly and not as a adult who has well developed mental capacities and can differentiate between right and wrong. This distinction between an adult and a child offender has paved way for an altogether different system of justice for juveniles viz, juvenile justice. The juvenile justice system operates differently from the one which is employed for trying adult offenders, mostly as a way to protect the children and to aid them to opt for better choices in life. The recognition of the fundamental principle that behind almost every adult persistent offender lies an earlier experience as a juvenile offender by the legal system points to the urgent need of tactfully handling juvenile offenders so\as to mould them law-abiding and socially committed citizens. That is the very reason behind the penal philosophy towards juvenile offenders viz., juvenile in conflict with law. In India, the legal system is very careful to handle them and reforms are grounded on the belief that the blight caused by adult crime can better be reduced, if juvenile in conflict with law can be ‘nipped in the bud’ through effective intervention. The juvenile justice system in India is based on the following assumptions:

1. Young offenders should not be treated in courts rather they should be corrected in all the best possible ways.
2. They should not be punished by courts, rather they should get a chance to reform.

3. Trial for child in conflict with law should be based on non penal treatment through the communities based upon social control agencies which may include observation homes and special homes.

It is pragmatic to mention that the children in conflict with law are also persons who are entitled to have a decent life, which is a human right as envisaged by several International Declarations & conventions. The best possible way to reform the delinquents is to formulate an effective policy for administration of juvenile justice and for implementation of the same. Furthermore, for the attainment of child rights, the significance of family is the first place. The preservation of family is the first step by which the primary goal of juvenile justice can be attained and thus the protection of family units should be ensured by the policy formation of the government. The involvement of community should also be made available on an increased level to provide shelter, foster care and services to street children.

**Bottom line: Connection to the communities and confrontation of the mistakes is the best shot at rehabilitation**