

## “Is Juvenile the Real Sufferer or the Real Culprit?”

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“Justice dies when a 3years old booked for stealing food and a 17 years 11 months Rapist sentenced relaxed in punishment as he is juvenile.”

-Gourav Bajaj

Gazing back in the 18th Century when the juvenile was tried and treated like an adult which rose a turmoil as it was considered that the child who has committed wrong must be treated as a child and not as an adult, as there was a firm belief in the society at that children should be given a second chance to prove their innocence and build a better future for them and enhance the culture of our country.

Considering the current era, we almost forgot that the acts which were created for our benefit to keep the countries law in order are unable to protect in many circumstances. Today’s generation is “**Digital Generation**”. Internet which was developed to provide information to anyone at any time is now being misused as people tend not to see positive aspects and use it for their fun. A child is indeed a mirror of whatever parents do. Many cases have not come to the knowledge of anyone because they are never told to anyone. Though this generation is digitally smart but is a real fool because sexual harassment begins at home. On an average 97 out of 100 girls are sexually assaulted in their childhood either by her brother, uncle, or close -relative. Another, alarming fact about juvenile is that more than 50% of all crimes committed by juveniles were against women and such crimes raised 92% all-India between 2012 and 2014. Though the numbers of crimes committed by a juvenile are increasing, the law is protecting them because of their age.

### Common Types of Juvenile Crime

One way to understand the causes of juvenile delinquency is to understand which kinds of crimes juveniles commit the most frequently. Common offenses committed by juveniles include:

- Low-level theft, such as shoplifting
- Underage possession of alcohol.
- Truancy.<sup>1</sup>
- Vandalism.<sup>2</sup>

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**1. Truancy-** the action of staying away from school without good reason  
Referred from <https://www.lexico.com/definition/truancy> last viewed on 8/06/2020 at 12:39 pm

- Possession of illegal drugs.
- Sexual offenses

Sections 82 and 83 of the Indian Penal Code contain elaborate provisions regarding the extent of criminal liability of children belonging to different age groups. A child below the age of seven is *doli incapax*, that is, incapable of committing a crime. Likewise, a child between seven and twelve years of age has only limited criminal liability. The contention is to justify a lenient treatment to young offenders because they cannot appreciate the nature and consequences of their actions due to a lack of sufficient maturity and understanding. Under the circumstances, it would be grossly unjust to treat them at par with the adult offenders.

We still follow this ideology though our Indian constitution has mentioned in its Fundamental Rights under Article 21 (A) that, “the State shall provide free and compulsory education to all children of the age six to fourteen years in such a manner as the State may, by law, determine”. Likewise the same has been mentioned in DPSP<sup>3</sup> under Article 45 which states that, “the State shall endeavor to provide early childhood care and education for all children until they complete the age of six years”. The duty of State and center both prevails to provide a basic education to the children to make them aware what is right and what is wrong for them so that they can make better choices for them in their future.

Section 27 of the Code of Criminal Procedure, 1973 further suggests that a lenient treatment to juveniles has already received statutory recognition in Indian law. The section provides that if a person below sixteen years of age commits an offense other than the one punishable with death or imprisonment for life, he should be awarded a lenient punishment depending on his previous history, character, and circumstances which led him to commit the crime. His sentence can further be commuted for good behavior during the term of his imprisonment.

In the landmark case of *Ram Singh and others v. State of Delhi* also known as Nirbhaya or the Delhi Rape case, 2012 which left a huge scar and fear on the heart of the country. After this incident people turned sentimental and expressed their hostile attitude towards the decision of the court. They asked Capital Punishment for the juvenile too who was involved in this case. There was up roaring in Parliament and the new law (Juvenile Justice Care and Protection of children 2015) came into existence in India. It is a comprehensive provision for children alleged and found in conflict with the law. This law is enacted taking into consideration the conventions of rights of the child and other related international instruments. The government of India consented to the convention of rights of the child (CRC) on the 11th of December 1992. The Constitution

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**2. Vandalism-** action involving deliberate destruction of or damage to public or private property  
Referred from <https://www.lexico.com/definition/vandalism> last viewed on 8/06/2020 at 12:43 pm

**3 . DPSP-** Directive Principle of State Policy

of India empowers and casts a duty on the state to ensure that their minimum requirements are met and their basic human rights are fully protected. The state intended to upkeep the principle adopted in the Constitution. According to the international treaties and constitutional parameters, it is responsibility of the state to treat the children with all softness and for the best interest of the child. But these all facilities should be provided to a child who has no knowledge of what is right and what is not. The Adolescent who is 14 years and above and has complete knowledge of outcome of his acts and still commits such crime just to glorify that he isn't a child anymore. Should law still protect such wrongdoers by justifying that he is child and should not be treated in a harsh manner but to be gentle with him or should treat such monsters of the society just like an adult to set a perfect example by giving capital punishment to such monster. When a stricter action would be taken against such alibi pleaders we will be able to see a better future for all.

Following are the factors which transforms Child thinking capacity:

**Economic Factor:** Poverty is one of the major reasons for juvenile to indulge into crimes just to satisfy their primary needs. When expectations are raising faster than the standard of living, the greater availability of consumer goods makes for greater dissatisfaction.

**Family Issues:** If the parents are unable to care for the child, an ignored child, Abusive parents physically and mentally, poor parental love, Children of alcoholics and drug users for them these are the major areas that can affect the brain of a young child. In some cases like abusive parents, the child tends to imitate what he/she has gone through in the early childhood; he/she would be a mirror reflection of the abuses he/she had gone through. That is why it is advised not to even quarrel in front of the child.

**Peer Pressure:** Sometimes a person due to the influence of the peer pressure may perform some action which may not be right. The problem of peer pressure is a major issue which the young generation is facing. The youngsters today feel the need and desire to show-off and are willing to go to any limits for the sake of proving themselves. It seems that sometimes they lose their mind while following their heart. Their decisions are driven by feelings and not by proper thinking. As seen in Nirbhaya Case also where the victim was brutally hurt and caused death by a juvenile.

**Virtual world:** Constant exposure to aggression – verbal and physical – on television news, videos, porn sites and games also contributes to increasing juvenile delinquency.

**Circumstantial Factor:** Sometimes a person due to some circumstances loses his normal state of mind. At that moment, he may do something which he may not do in a normal state of mind. During this period, as the person is driven by feelings and not by his senses, he may commit a crime and may be considered as a criminal in the eyes of law and society.

### **Issues and Challenges with Juvenile Justice in India**

**Term of the sentence:** There is no rational or logical reason which shows that total and complete rehabilitation can be accomplished by a child in conflict with the law within a maximum period of three years. It even doesn't provide a guarantee that the child won't commit the same crime again.

**Post completion of term and aftercare:** Complete lack of implementation of the provisions of the JJ Act after a juvenile performs his punishment is a predominant concern. India's cumbersome population makes it impracticable to trace and assure that a juvenile once freed continues with his healing or even reports regularly before his parole officer.

**Juveniles in Adult jails:** National Commission for Protection of Child Rights (NCPCR), a number of feasible juveniles are found in adult jails. Further, the police suppress the guidelines of the Juvenile Justice Act and lodge juveniles inside adult jails.

**Issues with juvenile homes:** Lack of qualified staff and monetary corruption remains one of the major concerns in juvenile habitats across India. In major of the homes, there remains a complete absence of vocational schooling, counseling and personalized care plans

A 2013 report by the Asian Centre for Human Rights (ACHR), "India's Hell Holes: Child Sexual Assault in Juvenile Justice Homes" stated that inmates are subjected to sexual assault and exploitation, torture, and ill-treatment, apart from being forced to live in heartless conditions.

### **Conclusion**

The definition of child is different in every act. While considering the Juvenile Justice Act the age is considered as defined in IPC. Our major concern in this article is that when a child who has attained that age of 14 years is considered that his mental capacity of thinking has gained enough knowledge for him to understand the difference between Black and White. But is it true that he would have been provided basic education? Though it is the duty of state government to provide free and compulsory education to children age between 6-14 years as specified in Article 21(A) but still we lack in providing such education to every individual. A child collects every action of his parents and tries to imitate it. The major impact on child's behaviour can be understood by his parent's relationship. It is the Indian mind-set that those children who are homeless or under poverty line or who do not have proper resources do such kind of things, up to a limit it is correct but after that it is wrong. according to the 2016 report of National Crime Report Bureau only 3.5 percent of crime has been done by homeless children rest are done by the juvenile who has home and good environment and if we see according to education the juvenile who are 16 years of age or above and involved in crime 45% of people has done their primary education but not tenth pass If we see the decades growth, in 2003 the total offence done by juvenile are four hundred sixty six and in 2013 it increases by seventeen hundred and thirty

seven. In 2016 there are fourteen hundred and eighty five crime were recorded of kidnapping and abdication in which eight hundred and seventeen is done for marriage purpose

*“A child is a person who is going to carry on what you have started.... He will assume control of your cities, States, and nations. He is going to move in and take over your churches, schools, universities, and a corporation...the fate of humanity is in his hands.”*

*-Abraham Lincoln*