

**“Juvenile Justice and Juvenile Courts”**

*\*Tamanna Malik  
Maharishi Dayanand University,  
Rohtak*

*\*\*Dhriti Aggarwal  
Maharishi Dayanand University,  
Rohtak*

31<sup>ST</sup> President of USA , Herbert Hoover once quoted **“Children are our most valuable resource”** i.e. Children are recognized worldwide as supremely assets of the Nation. The future of the nation lies in the hands of the Children, who have been recognized as the supremely assets but because of the indifferences of our society in all spheres, these future stake holders are not brought up properly which leads to child delinquency. Child or juvenile delinquency is an alarmingly increasing problem causing a source of concern in all over the world. Children ought to have been the subject of prime focus of development planning, research, and welfare in India but unfortunately, it has not been so.

Our nation being homeland of largest population of children had considered protection and betterment with a bona fide intention but the question of providing proper protection and care to the children of such a big number is a big challenge. To protect the innocents, the Constitution of India guarantees Fundamental Rights to all children in the country and empowers the State to make special provisions for children. The Directive Principles of State Policy specifically guide the State in securing the tender age of children from abuse and ensuring that children are given opportunities and facilities to develop in a healthy manner in conditions of freedom and dignity. Despite the Constitutional vision of a healthy and happy child protected against abuse and exploitation, and a National Policy for Children, the majority of children in India continue to live without a cared, protected and meaningful childhood. A good number of our children on account of socio-economic reasons have adding themselves in the list of delinquent child.

**The Juvenile Justice System :**

The juvenile justice systems have been designed to respond to the needs of young offenders. To make the people aware of the right of child, **United Nations Organization declared 1979** as “International Year of the Child” issuing a general appeal to all the nations to review their programmers for the well being of the children and to mobilize support for programmers according to the countries conditions, needs and priorities. The concept of juvenile justice was derived from a belief that the problem of juvenile delinquency and related problem of youth in abnormal situations are not only amenable to the resolution within the framework of the traditional process of criminal law. **The Juvenile Justice system** is based on principles of promoting, protecting and safeguarding the rights of children. It was enacted by the Indian Parliament in 1986. In the year 2000, the Act was comprehensively revised based on the United Nations Convention on the Rights of the Child (CRC), which India had ratified in

1992; the Beijing Rules; the United Rules for the Protection of Juveniles Deprived of their Liberty; and all other national and international instruments, thereby clearly defining children as persons up to the age of 18 years. Section 2 (k) of the Act defines “child” as a person who has not completed eighteen years of age. The Act is based on the provisions of Indian Constitution and the four broad rights defined by the UN CRC:

- Right to Survival
- Right to Protection
- Right to Development
- Right to Participation

The provisions of constitution which grants the special status to the children Article 15(3), 24, 39(e) & (f) and 45, National policy for children 1974, 2013, declare that children are national asset. Further through constitutional directions many other laws and statutory provisions have been enacted to protect the rights of children like RTE 2009, child labour prohibition act 1986, JJ<sup>1</sup> act 1986, later JJ(C&P) Act 2000.

### **Historical development of juvenile justice in India :**

It can be divided into six phases through reference of treatment of children, legislative developments, judicial Intervention and other government policies. Prior to 1773, 1773-1850, 1850- 1950, 1950-2000, 2001-2010<sup>2</sup> Year 1773 was a benchmark in the Indian legal system as Regulating Act of 1773 granted East India companies the power to make and enforce laws, the Charter Act of 1833 changed commercialization of company into a governing body. Between 1773 -1850 many committees were established focusing on children’s in jails, first law was made in 1850 to keep juveniles out of jails later the Report on All India Jail committee 1919-1920 segregated children from criminal justice system.

### **Juvenile justice (care and protection of children) act(2000) :**

Diagnosing the current developments, the juvenile justice administration in India was found to have several flaws or gaps in legal provisions and shortcomings by the way of linkages between the governmental and non-governmental efforts in the care, treatment and rehabilitation of such children. The JJ Act 1986 required that the pre-existing system built around the implementation of the then available Children’s Acts be restructured. However, due to the absence of a national consensus on the time frame for such a restructuring, the steps taken by most of the State Governments were still heavily short of the proclaimed goals<sup>3</sup> . In order to rationalize and standardize the approach towards juvenile justice in keeping

---

<sup>1</sup> Juvenile Justice

<sup>2</sup> Kethineni Sesha & Braithwaite Jeremy, towards a compliance model: The Indian Supreme Court and the Attempted Revolution in Child Rights

<sup>3</sup> M. N. Kulkarni, Justice for ‘Delinquents’, 29 ECONOMIC AND POLITICAL WEEKLY, 1570-1607, 1575 (1994)

with the relevant provisions of the Constitution of India and International obligations in this regard, the Juvenile Justice (Care and Protection of the Children) Act, 2000 was (re)enacted by the government of India. The Interim Report of the Working Group of Ministry of Social Justice and Empowerment (2001-02) has drawn attention to some additional inputs incorporated under the Juvenile Justice (Care and Protection of Children) Act, 2000. The Act with all additional inputs has been enforced since April 1, 2001, to deal with the children within its purview. The upper age limit of the children within the purview of the law has been raised. It was then mandatory to constitute a 'National Level Advisory Board' on juvenile justice, to advice the Central and State Governments as well as the Voluntary Organizations associated with this work<sup>4</sup>

### **Juvenile justice (care and protection of children) act, 2015 :**

But then again the Juvenile Justice Act, 2015 was enacted to replace the existing Indian Juvenile Delinquency law, Juvenile Justice (Care and Protection of Children) Act, 2000, so that juveniles in conflict with law in the age group of 16-18 years, involved in heinous offences can be tried as adults. The punishment has to be made a bit deterrent in order to inject the feelings of fear in the mind of the criminal. The “Nirbhaya rape case“ caused utter dismay, concern and outrage amongst the people. The gruesome act of brutalizing her with an iron rod was done by none other but a juvenile and firstly he was sentenced for a period of 3 years as per Section 15 of JJ Act, 2000 as per our law for juveniles. The principal ought to have been followed for trying juvenile offenders is that Juvenility should be decided as per the state of mind and not just the state of body. In Nirbhaya rape case all the other co-accused are awarded death sentence but the person who committed the most brutal part of the case was awarded a mere 3 years of remand as per JJ Act, 2000<sup>5</sup>. In the light of above incident, the bill was introduced in the parliament by Maneka Gandhi on 12th August 2014. The bill adopts several new features which were missing in the earlier act like it adopts the concept of Hague convention and cooperation in respect of Inter-country Adoption, 1993. The bill also seeks to make adoption process of orphaned, abandoned and surrendered children more streamlined. One of the most criticized step in the new juvenile justice bill 2015 is introduction of “judicial waiver system” which will allow treatment of juveniles in certain conditions, in the adult criminal justice system and to punish them as adults. Juvenile Justice Boards (JJB) and Child will be constituted in each district. So, as a result of amendment , the juvenile delinquent of Nirbhaya case was also awarded death sentence.

---

<sup>4</sup> The Juvenile Justice Act, 2000.

<sup>5</sup> available at R. Pandey, India: Juvenile Justice Act Amendment “Need Of Hour”, SINGH & ASSOCIATES (April. 08, 2018.), <http://www.mondaq.com/india/x/273428/Crime/JUVENILE+JUSTICE+ACT+AMENDMENT+NEED+OF+HOUR>.

**The cause of Juvenile delinquency :**

Juvenile delinquency is the act of committing a crime at a very young age. Teens can break laws for various reasons, and there are a number of factors that can lead them to juvenile delinquency. Individual risk factor, Family risk factor, mental health risk factor, Substance abuse risk factor, Broken family, Lack of communication, Lack of Finances, Lack of Social and moral training.

**Several rehabilitation and social reintegration measures and Conclusion :**

Based on our empirical observations and understanding the gravity of the problem being still obtained in the society meanwhile some positive developments are taking place for the effective treatment of those who unfortunately, due to situational contexts, or otherwise, become delinquents at the time when they would need love and caress of their near and dear ones, and go to school and play with children to develop their personality and prepare themselves for their futuristic life. In order to see the incidence of juvenile delinquency is reduced over the years and society develops and stay free from the thick black marks of this situation, some suggestions for legislative reformulations, juvenile justice delinquent's administration policy and programmers to be evolved for development of children from underclass categories are made here which may be of some consideration. Parents should be aware of the psychology of delinquency so that they may treat and handle their children with understanding and provide them an appropriate environment for the satisfaction of their basic needs and urges. The good habits and moral values developed in early infancy leave permanent impressions on the behaviour of adolescents. The principal as well as the teachers should be familiar with the psychology of the students i.e. their interest, motives, aptitude, attitudes, potentials etc. The teacher should report the behaviour of the student if he finds it abnormal. The concept of adolescent behaviour and juvenile delinquency should be included in the school curriculum and syllabus. The school should cater to the physical, psychological and social needs of a adolescents through different co-curricular activities. A feeling of future vocational security, positive attitude and sound moral values should inculcated in them. The voluntary organizations/clubs should educate the localities regarding the harmful effects of drugs and other substances. They should distribute pamphlets showing how anti-social acts destroyed individuals and houses. Through radio and television, interview with the ex-delinquents including their brief life sketches to share better experiences which will serve as an eye opener lesson to other youths. Government run rehabilitation centres should provide guidance and counselling with a very subsidized rate which can established to attract the juvenile delinquents who could not afford the costly NGO run centres.

Juvenile Justice Administration has been the part of judicial process in case of the juvenile delinquents. As it is the child criminals are kept in Observation Homes during the course of their trial. The Trial is conducted in the designated Juvenile Courts before specially nominated Judges. These two institutions are located separately. For the Trial, the delinquent boy or girl, inmate of Observation Homes, needs to be brought to the Juvenile Court on date

and time as fixed. In the process the child is carried through open community. Seeing others or feeling of being seen by others which the delinquent child to not wish to have it for itself, it is better the Trial is conducted in the Observation Homes itself. That is our suggestion here is to locate Juvenile Court well within the campus where Observation Home is located. This serves the purpose of serving delinquent child from being affected psychologically. As it is the Juvenile police to not wear uniform. In order to not to make the child to get deferred by seeing the police in dress, it has been made mandatory to this special category employee to not to wear dress. But same where there are problems creeping into the whole processes. It needs to be debated discussed and decided to have appreciatively introduced to the Juvenile police to have used the uniform selectively.