

## **JUVENILE CRIMES AND THE LAW IN INDIAN CONTEXT**

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### **ABSTRACT:**

We have been reading a lot about the crimes done by those who are not old enough to be regarded as adults; such depravities are a harsh reality of not just India but are amongst the most widespread issues all around the globe. Children get most influenced by what happens around them and are much prone to recklessness due to their ongoing stage of development. A number of surveys have been conducted and an overwhelming amount of them finds that a large number of adult criminals were involved in offending behaviour since an adolescent age. There has been recorded a rise in the crimes committed by juveniles in the past few years. The data collected by the National Crime Records Bureau (NCRB) shows a substantial spurt in the crime rate of juveniles between 2010 and 2014. The recent years have experienced a boost in the serious crimes of juveniles. This resource guide examines the research on Juvenile Crimes in the Indian context. This study was aimed at understanding who exactly Juveniles are and the causes behind the deviant behaviour of such juveniles. The measures that are being taken for the positive development of the children in conflict with law are also overlooked.

### **WHO IS A JUVENILE?**

In the context of India, a person who has not attained the age of eighteen years is regarded as a juvenile. The term juvenile is derived from a Latin word 'juvenis' which means 'young'. Those juveniles who deviate from the course of normal social life and indulge themselves into offensive activities are considered as juvenile delinquents. Delinquency is a kind of abnormality. Cyril Burt, an English psychologist defines delinquency as occurring in a child when his antisocial tendencies appear so grave that he becomes or ought to become the subject of official action.

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Initially, The Juvenile Justice Act, 1986 defined a 'juvenile' as a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years. The Act also defined delinquent juvenile as, a juvenile who has been found to have committed an offence. Later on, The Juvenile Justice (Care and Protection of Children) Act, 2000 redefined the term 'juvenile' as, a person who has not completed eighteen years of age. The 2000 Act also removed the gender distinction made by the 1986 Act and the term 'juvenile delinquent' was rephrased as 'juvenile in conflict with law' which has been defined under section 2(1) of the Act as, a juvenile who is alleged to have committed an offence. Further, the term 'juvenile in conflict with law' was again redefined by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 as, a juvenile who is alleged to have committed an offence and has not yet completed eighteen years of age as on the date of commission of such offence.<sup>2</sup> If the Court finds a criminal who has committed the crime as a juvenile, it shall forward the criminal to the Justice Board.

### **FACTORS UNDERLYING JUVENILE DELINQUENCY**

A number of children in India are involved in crimes of petty as well as heinous nature. Men drove the spike in heinous juvenile criminal cases. The case records show that almost half of all the juvenile arrests are made for the offence of theft, the majority of them are for financial reasons. Also, this has been recorded that the younger juveniles are more involved in the crimes of petty nature and the juveniles between the ages of 16 and 18 years are more involved in heinous criminal offences. The recently happened *Nirbhaya rape case*<sup>3</sup> involved a minor who played the most brutal role in the offence. Similar to this, there exist many cases which have consequently given rise to the public debates in motion of the Amendment of the age specified for a person under Juvenile Justice (Care and Protection) Act, 2000 to be regarded as a juvenile and the shield of protection given under the law to such juveniles who are involved in heinous crimes should be removed.

There is no single but many root causes behind the deviant behaviour of juveniles. I have found that those children who belong to poor families or broken homes or have no family support are

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<sup>2</sup> Act 33 of 2006.

<sup>3</sup> Mukesh v. State of NCT Delhi, (2013) 2 S.C.C 587.

seen to be at an increased risk of becoming an offender or the children who have exposure of abuse and violence since the beginning or were part of a ferocious peer group are more likely to deviate from a normal course of behaviour as they are never given the opportunity to learn and observe from the healthy relationships. Moreover, a good number of offenders are mentally deficit; such children are commonly used by the delinquent gang or the adult offenders to achieve their criminal objectives. Furthermore, in a large number of cases, society's apathy, emotional factors such as jealousy, the feeling of inferiority, the desire of rebellion and more such reasons becomes the root cause behind their aberrant behaviour and major contributory reasons underlying the countless acts of unfair treatment received by them.

The behaviour that a juvenile shows during pubescence is often a good indicator in presuming the type of offender he would become. It is known that today's delinquent child may turn out to be tomorrow's chronic criminal.<sup>4</sup>

### **THE CONTROL MEASURES FOR POSITIVE DEVELOPMENT OF JUVENILES**

India is a signatory of the United Nations Convention on the Rights of the Child and is obliged to work towards ensuring all the rights enshrined therein to all children of the nation but still, India has witnessed an increase in crimes committed by children and crimes committed against them too.

We all have heard an old adage which says, "Prevention is better than cure." Children are needed to put in some kind of crime prevention program than a correctional facility. The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents.<sup>5</sup> This includes avoiding criminalizing and penalizing a child for behaviour that does not cause serious harm to society.

Moreover, alone prevention is not sufficed, reformation is also needed, which is basically the focus on corrections programs for juveniles. Mostly teenagers lack positive thinking skills and

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<sup>4</sup> C.N. SHANKAR RAO, PRINCIPLES OF SOCIOLOGY WITH AN INTRODUCTION TO SOCIAL THOUGHT 546 (6<sup>th</sup> ed. 2006).

<sup>5</sup> United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), G.A. res. 45/112, annex, 45 U.N. GAOR Supp. (No. 49A) at 201, U.N. Doc. A/45/49 (1990).

they tend to believe that they are not as much capable and good as the others. Modelling a positive attitude in juveniles is one of the most effective ways of reformation. Hence, Juvenile Courts were established for the separate trials of juveniles, they cannot be chained and they cannot be produced before the magistrate by the police in uniform, also no advocates are needed to plead on their behalf. All these steps are to create optimism in the minds of juveniles, unlike adult criminals, special treatment is required. The special treatment to juveniles was directed to be given for the first time by the Supreme Court in *Gopinath Ghosh v. State of West Bengal*.<sup>6</sup> The Indian Constitution enables the State government to make special provisions for children by virtue of its Article 15(3).

In *Salil Bali v. Union of India*,<sup>7</sup> the Supreme Court regarding the provisions of 2000 Act fixing 18 years as the upper age limit for treating persons as juvenile held it to be constitutionally valid. An again similar issue was raised in *Subramian Swami v. Raju*,<sup>8</sup> in which the Supreme Court upheld its validity and referred the juvenile to the juvenile justice board.

## CONCLUSION:

Having regard to all of the above, it is concluded that juvenile in common parlance is a person who has committed an offence and has not yet completed eighteen years of age as on the date of commission of such offence. There is no single but multiple root causes behind the deviant behaviour of juveniles. The causes of juvenile delinquency include the socio-economic status and other variable factors like broken homes, child's strained relationship with parents and their intense bonding with the ferocious peer group members which tends them to deviate from the right path.

The term 'juvenile' is no more used because it suggests a negative meaning and is considered as an offender; rather this term was redefined as a "child in need of care and protection" or simply "child in conflict with law". This is to embody a positive attitude in the Children in Conflict with Law which is one of the most effective ways of reformation. For the fulfillment of this purpose

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<sup>6</sup> (1998) 5 S.C.C 697.

<sup>7</sup> A.I.R. 2013 SC 3743.

<sup>8</sup> (2014) 8 S.C.C 390.

the Juvenile Justice (Care and Protection of Children) Act, 2000 has been enacted aiming to amend the law in regard to the need of care and protection of children in conflict with law by providing them for proper care, protection and rehabilitation, by adopting a friendly approach in the disposition of matters in the best interest of child, and for their ultimate rehabilitation. Such an approach was adopted because rehabilitation has been regarded as a better measure than retribution for juveniles.

Presently, the Juvenile Justice Act, 2015 categorized offences into three kinds: Petty, heinous and serious. If a heinous crime is committed by a juvenile of age between 16-18 years, the juvenile justice board has the discretion to decide whether the offender will be treated as a juvenile or as an adult person.