



AN ANALYSIS OF JUVENILE JUSTICE SYSTEM OF INDIA

By *Palak Singh*
From *Symbiosis Law School, Pune*

ABSTRACT:

The youth of the nation is its biggest asset as they are the ones who carry forward the torch of growth and success and hence it is of utmost importance to provide the children and adolescents with basic necessities and to provide them with proper care and protection. In fact, the Indian Constitution ensures that education and protection from child labor are fundamental rights ensured to every child.¹ But what happens when the same children or adolescents commit offences? Shall they be put through the same hardening process of law that the adult offenders go through and be subjected to similar atrocious punishments as them? All these questions are answered under one uniform act, the Juvenile Justice (Care and Protection) Act, which ensures that no child suffers at the hands of the prison authorities or correctional centers. Rather than sending the juveniles off to jail, the Act specifies other measures to deal with juveniles who are in conflict with law, in a more systematic, sophisticated and friendly way. The causes of crime by juveniles cannot be narrowed down to one cause. While poverty is an important factor while looking at the causes of petty offences such as theft but much serious offences like murder, kidnapping and rape cannot be quite justified by poverty. Other factors like socio-economic issues, family issues, obnoxious societal practices and psychological problems also have a great impact on a child's mind. Due to all these reasons, it is crucial to understand a minor's perspective

and then take correctional measures. It is believed that a child's mind is like a plain board where people can write and engrave anything they want. Hence, what a child learns from his surroundings in his childhood and adolescence, gets embedded in his mind. It is believed that no child is born evil. It is these surroundings and the experiences that transforms him into someone who might adopt behaviors which are defined as "delinquent" and sometimes being "in conflict with law". Proper care giving and fair treatment nurtures a child and helps him from staying away from delinquent behavior. Hence the question lingers, whether rehabilitation or stricter punishment is the solution to decrease juvenile delinquency in India? This paper tries to answer this very question.

INTRODUCTION:

Back in the December of 2012, the whole country was shook from its root when the nude body of a woman was found lying on the roadside in the capital city of India, New Delhi. With bite marks all over her face and profusely bleeding from every nook and corner of her body, the victim was gang-raped in a moving bus by six men, beaten and left to die on a cold wintery night. She was thrown off the same moving bus along with her male friend, who also received several injuries. Eventually, when it came down to convicting the men for her rape and murder, out of the six men, five were convicted and sentenced to death by hanging, but one of them had escaped this punishment. This was solely because he was a few months shy of turning 18. This meant, that he, being a minor, could not be convicted of the crime in the same way as the other men were.

¹ The Constitution of India, arts 21A, 24



This single incident in Delhi sparked a series of serious changes in the Indian Legal System. One of the major changes that took place was the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015. It was a replacement for the Juvenile Justice (Care and Protection of Children) Act, 2000. One of the major changes that was brought in with commencement of this act was that it allowed for juveniles in conflict with law in the age group of 16-18 years, involved in heinous offences, to be tried as adults. Here, the age of juvenility remained unchanged, but a categorization was made. Obviously, the new change had its fair share of criticism. Juvenile justice is an integral part of national development and that is why many critics have argued that convicting a minor in the same way as an adult is a gross mistake as the psychology of the two are completely different.

Under the Juvenile Justice (Care and Protection) Act, 2015, (hereinafter referred to as JJA, 2015), a child is defined under section 2 (12), as someone who has not yet attained the age of 18 years, whether male or female.

Further, according to the Indian Penal Code, 1860, a child below the age of 7 years cannot be convicted of any crime whatsoever. While from 7 to 12 years of age, children can only be convicted of certain crimes, if it is found that they understand its nature and outcome. Under the United Nations Convention on the Rights of Child, 1989, a child has been

defined as any human being below the age of eighteen years unless the law declaration applicable to child, majority is attained earlier.²

Most of the time, a child and a juvenile mean the same thing more or less, but the difference lies in the context of implications in the eyes of law. A juvenile is mostly used as a reference to young offenders. Under the Act, a juvenile in conflict with law has been redefined from the previous act [Juvenile Justice (Care and Protection) Act, 2000] to a child in conflict with law. In simple words, a juvenile is a minor who is accused of an offence.

BRIEF HISTORY:

In the ancient and the medieval society, there had been several laws which focused on the issues of crime and hence guided the behavior of the society, but none of these legislations or laws specifically addressed the issue of crimes committed by juveniles. But upon the society started realizing that the issue of delinquent children had been increasing and there had to be a legislation to guide the behavior of the minor offenders. Hence during the 1850's when India was under the British Raj, the Britishers drafted the first legislation which somewhat dealt with the growing issue of juvenile delinquency. It was called the Apprentices Act, 1850.³ Under this act any child between the age of 10 to 18 who was found committing petty offences was placed as

² United Nations Convention on the Rights of Child, 1989, art. 1

³ Edited by Witerdyk, A. John, Juvenile justice Systems: International Perspectives, 266, Canadian Scholars Press Inc. Edition: 2, 2002, available at: http://books.google.co.in/books?id=uvGI134Q_tC&

pg=PA266&lpg=PA266&dq=1st juvenile justice legislation in India&source=bl&ots=Rjlc37SSui&sig=zOuMDCt-N_HLr7Ib19JLc_N2ks4&hl=en&ei=d9ixSrmqEI_gMbSd_ckL&sa=X&oi=book_result&ct=result&resnum=5#v=onepage&q=&f=false (last visited on March 2, 2020)



apprentices under trade. Although this act did not entirely deal with the issue of juveniles, it can still be viewed as one of the earliest legislations to deal with children who commit crime. Then in 1876 came the Reformatory School Act⁴ which was a landmark legislation as it aimed at setting up reformatory schools in India in order to deal with delinquents. This act was the first big leap towards the management of the delinquent juveniles in the Indian society. The act was in accordance with the Indian Penal Code, 1860 and gave completely immunity to children below the age of 12, thereby exempting them from any sort of punishment or reform. The said act also gave protection to the children; the court could only sentence the children for two to seven years in a reformatory school (children below the age of 18) and thereafter, if it was found that if the youths placed in such schools could find gainful employment, they were let out.⁵

Under the Indian Penal Code, 1860, (hereinafter referred to as IPC) according to Section 82 a child under the age of seven is given complete immunity. The principle of “doli incapax” has been imbibed under this provision which literally translates to “incapable of crime”. Further under Section 83 of the same Act, any child between the age on seven to twelve is to be excused of any offence, provided he or she does not understand the nature or consequence of their acts. IPC assumes that a child below the age of seven has absolutely no understanding of crime and thus does not have the capacity to form criminal intent.

In the 20th century, different states across India had started coming up with their own juvenile legislation, with the first one being the Madras Children Act, 1920 which was then followed by Bombay and Bengal. This was followed by the report of the Indian Jail Committee, which was formed by the Indian government under the British rule. They submitted a detailed report of their observations and suggested that children should not be tried in adult courts and therefore, a separate court especially dealing with young offenders shall be established. These state’s Children’s Act had divided children into two basic categories: -

- (a) Youthful offenders (Child in conflict with law, as per present day legislation)
- (b) Destitute and neglected children (child in need of care and protection, as per present day legislation)

The legislation that the states had for themselves varied from each other. For example, the definition of child varied in different state legislations. These variations prompted the Supreme Court to observe in the case of *Sheela Barse v. Union of India*⁶ that there shall be a uniform law instead of various state legislations: -

*“...we would suggest that instead of each state having its own Children’s Act different in procedure and content from the Children’s Act in other states, it would be desirable if the Central Government initiates Parliamentary Legislation on the subject, so that there is a complete uniformity in regard to the various provisions relating to children of the entire territory of the country...”*⁷

⁴ Reformatory School Act, 1897 (Act 8 of 1897)

⁵ *Ibid.*

⁶ 1986 SCALE (2)230

⁷ *Ibid.*



Eventually, after the judgement of Sheela Barse v. UOI, the word juvenile, combined with justice, was adopted in domestic law of India under the Juvenile Justice Act, 1985 (hereinafter referred to as JJA, 1985). With coming of the new act, a lot of changes were also brought in. Prior to the act, words such as maintenance, welfare, training, education and trial were used in the Children's Act, 1960. But then in the JJA, 1985, words such as 'development' and 'treatment' were used. The use of word development implied to a more holistic development of a child, which included not just educational opportunities but also the opportunity to be a part of a family and live a life of dignity. The term treatment connoted to the fact that the child shall go through rehabilitation and reformation. The JJA, 1985 worked towards the overall well-being of a juvenile, which meant that it worked along the universally accepted and agreed guidelines and norms of care and protection of the Juveniles.

With advent of The Juvenile Justice (Care and Protection) Act, 2000 (hereinafter referred to as JJA, 2000), the concept of "juveniles in conflict with law" and "child in need of care and protection" came into picture. Since there had been a gradual increase in the number of offences committed by juveniles, the children who were previously seen as troubled and vulnerable, were now seen as criminal and violent juveniles from whom the society was needed to be protected. The main objective of the JJA, 2000 was to provide proper care and protection to the child/juvenile and adopting a child friendly approach in the adjudication and disposition of matters in institutions established under the same Act. Also, unlike the JJA, 1985 which differentiated between a boy and girl by stating that a juvenile is a boy

under the age of sixteen while for a girl it is below the age of eighteen, the JJA, 2000 has defined juvenile as anyone below the age of eighteen. There was no segregation between a girl and a boy, and both were treated the same under the law. It is also worth mentioning that while JJA, 1986 only defines "juvenile" while JJA, 2000 defines both "child" and "juvenile".

THE ADVENT OF JUVENILE JUSTICE ACT, 2015

The present functioning Act with regards to the juvenile of the country is the Juvenile Justice (Care and Protection) Act, 2015 (hereinafter referred to as JJA, 2015 or as the Act). The JJA, 2015 was enacted by the Indian Parliament on 7th of May 2015 amidst intense controversy and debate surrounding the Delhi Gangrape incident in 2012. Even though the Act was brought in after a lot of protest by the citizens across nation who demanded stricter laws for the juveniles of the country committing heinous crimes, it was still met with a lot of criticism by the advocates of rights of children.

After the Delhi Gangrape case, tremendous amount of people across the nation had protested against the juvenile law of the country. This was because one of the most hostile accused involved in the incident was a minor and hence not tried as an adult. He was sentenced to 3 years in a reformatory home. A Public Interest Litigation was filed by Subramanian Swami, a BJP politician, who sought that the boy be tried as an adult. But eventually, the Juvenile Court gave its verdict and the accused was sent to a reform home in 2013. It was after this that the then Minister of Women and Child Development, Maneka Gandhi said that a new law to try 16-18-year-old as adults was underway. And



finally, after a lot of deliberations, the Juvenile Justice (Care and Protection) Act, 2015 was enacted which allowed minors belonging to the age group of sixteen to eighteen years to be tried as adults if they committed heinous crimes. The crime would be analyzed by the Juvenile Justice Board to ascertain if the crime was committed by the minor who was capable enough to understand the gravity of the crime.

But these provisions are in direct contravention of the United Nations Conventions on Child Rights which defines a “child” as any human being under the age of 18 years and thereby forbids any capital punishment inflicted upon them.⁸ Article 37 (a) of the same Convention obliges to all the member states to prohibit as well as eliminate any kind of corporal punishment, including any other form of punishment that is cruel, inhumane or degrading in nature on children below 18 years. India has ratified the same in 1992.

A committee, headed by former Chief Justice of India Justice J.S Verma,⁹ was formed and was tasked with the job of making recommendations on women safety. In their report, among other recommendations related to how to tackle the ever-growing issue of sexual assault and harassment, the committee also recommended that the juvenile age bracket should be maintained to comply with the UN Convention.¹⁰

ANALYSIS OF THE JUVENILE JUSTICE (CARE AND PROTECTION) ACT, 2015

One of the key aspects of the JJA, 2015 is that it has been sculpted with utmost precision so as to ensure the well-being of children and so that their rights are not violated by an authority. But there are a few provisions which are in complete contrast with each other. While at some places, our justice system believes in reformation of the child, in other places it talks about punishing 16-18-year old in the same way as adult offenders. Chapter II of the JJA, 2015 enumerates the general principles of care and protection of children. Section 3 under the same chapter lays down sixteen general principles. One of the most significant principle out of all these is the first principle¹¹ where the act presumes that “*any child shall be presumed to be an innocent of any mala fide or criminal intent up to the age of eighteen years.*” This is very different from the principle of “innocent until proven guilty”. An adult is presumed innocent until proved otherwise by the prosecution, but a child is not just presumed to be innocent, but also presumed to have no mental capacity to form any type of criminal intent or have any mala fide intentions. This is a very significant principle as this marks a clear line of demarcation between an adult accused of an offence and a child in conflict with law. According to the Indian judiciary as well as the legislature, a child is too young and naïve to be able to form any criminal intention. As we go further down, we see that the other principles, collectively, ensures that

⁸ *Id.* at 4.

⁹ Justice Verma Committee on Amendments to Criminal Law (January, 2013)

¹⁰ Juvenile Justice in India, *available at*: <https://blogs.wsj.com/indiarealtime/2013/08/31/jvenile-justice-in-india/>

(last visited on March 15, 2020)

¹¹ Juvenile Justice (Care and Protection) Act, 2015 (Act 2 of 2016), s.3



a child does not come under any pressure, nor does he have to follow any procedure that the adult offenders have to go through. This makes it certain that the fragile mind of the young offenders does not get affected in any way. A child's psychology is very different from that of an adult. While the JJA, 2000 defines some twenty-five words under section 2, i.e., the interpretation clause, the JJA, 2015 has added many more words under its interpretation clause under section 2. This goes on to show that the JJA, 2015 is much more elaborate and has addressed many new issues. The Act largely takes into account the psychology of a child and has adopted a lot of child friendly measures while also ensuring that the child is not punished but rather reformed. For example, under section 10 of JJA, 2015 a child in conflict with law shall never be placed in jail or police lock up, unlike adults who are placed under the custody of police when accused of any criminal offence under the Indian Penal Code, 1860 in accordance with the procedures layed under the Code of Criminal Procedure, 1908. Section 12(1) of JJA, 2015) states that a person, who is believed to be a minor and is held in the custody of the police shall be released on bail, with or without any surety, into the custody of a fit person. But then under the same sub-section it is also stated that "*provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying*

the bail and circumstances that led to such a decision."¹² This shows that while the act understands that a child should not be put through hardening situations like an adult offender, it also makes sure that no one is put in any danger because of these young offenders. This section of the said Act answers the very important question which is whether a child in conflict with law be released on bail even if he poses danger to the moral, physical or psychological security of someone else. The section makes it plenty clear that a young offender cannot be released if his presence might threaten another person's well-being or if releasing him would defeat the purpose of justice.

But out of all the changes brought in by the act, Section 15 onwards remains the most significant and controversial till date. Section 15 of the JJA, 2015 is the main change which was brought in by the legislature. Under section 15, if a child has been accused of any heinous crime and he has either completed the age of sixteen or is above the age of sixteen, then the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence. But before expatiating in detail about section 15, it is important to understand what exactly comes under the category of 'heinous crime'. Section 2 (33) defines heinous crime. According to the said section, *a heinous offence is an offence for which the punishment under the Indian Penal Code or any other law for the time being in force is*

¹² Juvenile Justice (Care and Protection) Act, 2015 (Act 2 of 2016), s.12(1)



minimum imprisonment for seven years or more. On close reading of the Indian Penal Code (hereinafter referred to as the Code), it becomes plenty clear that a huge chunk of the offences mentioned under the Code have punishment which gives minimum 7 years of imprisonment and above. It is very essential to understand that for a crime to be titled as heinous under the JJA, 2015, the minimum punishment shall be 7 years of imprisonment; the key word here being “minimum”. This means that a crime which does not mention the minimum punishment under it as 7 years (or more) then the juvenile cannot be tried for those crimes as adults.

But before any juvenile can be tried as an adult, a Board has to conduct a preliminary assessment in cases of heinous offences, and it shall be done within a period of three months from the date of first production of the child before the Board. Under the preliminary assessment, the Board gauges mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which the juvenile allegedly committed the offence. In layman’s language, the Board’s job is to do a preliminary evaluation of the child’s mental capacity and then conclude whether the child had the mental capacity to commit the crime he has been accused of and whether he could understand the consequences and outcomes of his act. Once the board is satisfied that the child did have the understanding that is needed in order to commit the crime, then he

would be tried as an adult. Every step hereon that juvenile needs to follow is similar to that of an adult offender and hence, the case no more remains under the purview of the JJA, 2015. The Board is required to take help of psychologists’, psycho-social workers and other experts before reaching any decision. But this part of the JJA, 2015 has been subjected to heavy criticism. In May of 2015, when the debates were being conducted in the Lok Sabha pertaining to the JJA, 2015, Shashi Tharoor, an Indian National Congress, Member of Parliament (MP), brought into light some major issues which came with the advent of the said act. He pointed out that the JJA, 2015 was in direct contradiction with international standards. He also stated that many children who break the law come from poor and illiterate families. He further added that the children should be educated instead of penalizing them.¹³ Many have gone onto call the said Act regressive and have strongly condemned it. But there is also a large section of the society which feels that this was a much-needed change that had to be brought in as the crime being committed by juveniles have started getting more horrendous over the time. But how true is this? According to National Crime Records Bureau, total crime committed by juveniles in states and union territories was 33,606 in 2017 while it dropped down to 31,591 in 2018.¹⁴ Although there is a sharp decline in the number of crimes committed by juveniles, one cannot look over the fact that the number is still very high.

¹³ Juvenile Justice Act: In Lok Sabha, Shashi Tharoor says amended bill will embarrass govt, *available at:* <https://www.firstpost.com/politics/juvenile-justice-act-in-lok-sabha-shashi-tharoor-says-amended-bill-will-embarrass-govt-2232156.html> (last visited on March 20,2020)

¹⁴ National Crime Records Bureau, 2018 Crime Statistics, TABLE 5A.1, Crime Committed by Juveniles (IPC+SLL)-2016-2018, Page no. 403, *available at:* <http://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%201.pdf>



Other provisions of the JJA, 2015 which makes it remarkably different from the JJA, 2000 are the provisions related to adoption and foster care. In the new 2015 Act, a new chapter has been introduced all together titled “Adoption” which extensively lays down the procedure for adoption of a child unlike the 2000 Act.

Assault or Criminal Force with Intent to Outrage her Modesty ²⁰	1540	1456	1408
Rape ²¹	1903	1614	1547
Attempt to Commit Rape	67	46	42

STATISTICS, ANALYSIS OF THE CURRENT TRENDS OF CRIME COMMITTED BY JUVENILES AND REASONS OF SUCH DEVIANT BEHAVIOUR:

TABLE 1: Various offences against the human body committed by Juveniles in Conflict with law in the year 2016, 2017 and 2018

TYPE OF CRIME	2016	2017	2018
Murder ¹⁵	892	727	767
Culpable Homicide not amounting to Murder ¹⁶	45	37	28
Causing Death by Negligence ¹⁷	319	360	454
Attempt to Murder ¹⁸	933	844	830
Attempt to Commit Culpable Homicide ¹⁹	53	67	68

SOURCE: National Crime Records Bureau, Home Ministry of India²²

From the above table, the following observations can be deduced:

- The overall number of offences committed against the human body by juveniles in 2016 was the highest in almost all the categories.
- Contrary to the popular belief, number of serious offences like murder, rape and Culpable Homicide not amounting to Murder has decreased over the period of 3 years.
- Number of murders by juveniles was highest in the year 2016, dropped down in 2017 and then increased again in 2018.
- Offences against women which includes Assault or Criminal Force with Intent to Outrage her Modesty, rape and attempt to commit rape has decreased constantly over the period of three years. Highest number of rapes were in 2016 and then the number dropped sharply in 2017 and then again, a little in 2018.
- Although there has been a decline in offences by juveniles in general, offence of causing death by negligence has increased over the

¹⁵ Indian Penal Code, 1860 (Act 45 of 1860), s.300

¹⁶ Indian Penal Code, 1860 (Act 45 of 1860), s.304

¹⁷ Indian Penal Code, 1860 (Act 45 of 1860), s.304A

¹⁸ Indian Penal Code, 1860 (Act 45 of 1860), s.307

¹⁹ Indian Penal Code, 1860 (Act 45 of 1860), s.308

²⁰ Indian Penal Code, 1860 (Act 45 of 1860), s.354

²¹ Indian Penal Code, 1860 (Act 45 of 1860), s.375

²² National Crime Records Bureau, available at: <http://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%201.pdf> (Last visited on March 25, 2020)



period of three years with the highest number in 2018.

It also worth noting that according to the National Crime Records Bureau, majority of juveniles in conflict with law apprehended under IPC & SLL crimes were in the age group of 16 years to 18 years (75.5%) (28,867 out of 38,256) during 2018.²³

To conclude, even though there has been a considerable amount of decrease in the number of offences from 2016 to 2018, the number is still high and in thousands and most of these offences are committed by minors falling in the age bracket of 16 to 18. In the recent past, the number of heinous criminal incidents being reported, which involve juveniles, has increased exponentially.

In 2017, a 22-year-old woman had alleged that she was raped by five people, including four juveniles, in northwest Delhi's Jahangirpuri area.²⁴ Then in 2016 Nine-year-old schoolboy died after being assaulted by classmates in Tamil Nadu.²⁵ In 2018, an 11th standard student had brutally murdered a seven-year-old boy named Pradyuman Thakur within school premises.²⁶ In the infamous case of murder and rape of an eight-year-old girl in Kathua, Jammu & Kashmir,

one of the accused's apprehended was a juvenile. From these instances, it is plenty clear that even though the numbers of offences might be going down on paper, but the gravity of the crime keeps increasing. The above-mentioned crimes have all been committed after 2015, which implies that these crimes were committed after the implementation of JJA, 2015. It also needs to be noted that contrary to popular belief, minors living with their parents or guardians tend to commit crime more than the minors who are homeless.²⁷

The causes of such deviant behavior cannot be pin pointed or narrowed down to one particular reason. There are several factors which play a very significant role in such cases. When a child is growing up and entering the phase of adolescence, he goes through various changes biologically and psychologically. Along with these changes are hormonal changes which leads to emotional surge which in turn brings heightened feelings of aggression, pride and sexuality. Safe to say, that at this stage the mind of minors is extremely vulnerable, fragile and easily manipulated. Social values, morals and ethics in a society shapes a child into who he/she goes on to become in future. The values imparted in a child is a reflection of the society where they are brought up. Moral degradation, social deviance, immoral

²³ *Ibid.*

²⁴ Delhi: 22 year-old woman alleges gang rape; police arrests five, including four juveniles, *available at*, <https://www.firstpost.com/india/delhi-22-year-old-woman-alleges-gang-rape-police-arrests-five-including-four-juveniles-4270793.html> (Last visited on March 25, 2020)

²⁵ Nine -year-old schoolboy dies after assault by classmates in Tamil Nadu, *available at*, <https://www.firstpost.com/india/nine-year-old-schoolboy-dies-after-assault-by-classmates-in-tamil-nadu-2659040.html> (Last viewed on March 25, 2020)

²⁶ Ryan International Murder Case so far: Accused sent to remand; Boy's parents want death penalty, *available at*, <https://www.firstpost.com/india/ryan-international-school-murder-case-live-updates-cbi-charges-class-xi-boy-for-killing-seven-year-old-pradhyuman-minor-detained-4198901.html> (Last viewed on March 26, 2020)

²⁷ National Crime Records Bureau, 2018 Crime Statistics, TABLE 5A.6 Education & Family Background of Juveniles Apprehended, *available at*, <http://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%201.pdf>



practices, other negative values and norms prevalent in the society, have a negative impact on the attitude of the adolescent, thereby contributing in becoming delinquents.²⁸ In places where the child is neglected, abused or treated inhumanely, there are high chances of them resorting to violence to cope up with such abuse. It has been proved time and again that the behavior of adult offenders is most of the times linked directly to childhood abuse, neglect and poverty. Hence family abuse, peer pressure and other social factors have a huge impact on a child's mind and his actions. According to the NCRB's 2018 crime statistics,²⁹ the number of juvenile offenders living with their parents (32,433) or guardians (3,432) was significantly higher than the number of them who were homeless and not living with family (2,391). Hence family along with society plays a very significant role in the upbringing of a child. Poverty ridden youth is also many a times outcasted by the middle and upper strata of the society which results in resentment.

In the Indian society, where 21.9% of the population still lives below the National Poverty line and ranks 129 in Human Development index,³⁰ poverty plays an important role in a child's growth. It has been stated several times that the majority of the juveniles in conflict with law come from a poor background.³¹ Poverty can lead people to take extreme measures and sometimes such measures can be violent and criminal in

nature. Many a times, in order to survive and earn their bread, the parents of such children stay outside of their homes for long period of time. During this time, the children might end up joining hands with the wrong, elder crowd and thus, might get involved in the criminal offences. Children are left uncared for, for long periods of time which puts them under risk. Poverty coupled with lack of education is a very harmful mixture. Education has been, without a shadow of doubt, the most powerful tool to combat any type of evil prevalent in society. When children leave education at an early stage, they do not get the required knowledge to understand right and wrong. Even though the constitution of India³² guarantees education for every child up to the age of 14 years as a fundamental right, many children are either forced not to get education due to lack of money and other resources or they leave schools voluntarily. Another factor is media representation and presence of internet in almost every household. Internet is very easily available to everyone and hence access to media platforms and other harmful websites including pornographic material is rather facile. Media these days has been showcasing juvenile offenders in a fancy environment, undeterred by law and police, with many online series coming up and showing such juveniles in extravagant light. One can also not ignore the psychological factors. An uncared-for child who ends up with wrong group of peers can be a major root cause for stemming psychological disorders which

²⁸ Dr. Tomba Chingtham, "Causes of Juvenile Delinquency in the Higher Secondary School" 4 IOSR-JRME (2015)

²⁹ National Crime Records Bureau, *available at*: <http://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%201.pdf> (Last visited on March 27, 2020)

³⁰ Human Development Reports, *available at*: <http://hdr.undp.org/en/countries/profiles/IND> (Last visited on March 28, 2020)

³¹ Ms. Abhilasha Belwal, Mr Ashish Belwal, "Juvenile Delinquency in India" 7 BLR (2016)

³² The Constitution of India, art 21A



mostly goes untreated. These are just a few causes of juvenile delinquency and the list does not end here. Every child is different hence the causes can be varied.

SUGGESTIONS AND CONCLUSION:

Many people fail to understand that a juvenile is very different from an adult offender and hence their psychology and mindset is also divergent. Even though JJA, 2015 is a progressive step towards holding juveniles in conflict with law accountable for their action especially when a crime is as heinous as rape or murder. But one needs to remember that the globally accepted norm states that a child should be rehabilitated and not punished. The legislature should focus more on a child's rehabilitation and understand the problem better rather than subjecting the younger generation to punishment. In order to combat the issue of juvenile delinquency, it is very essential to understand the psychology of a child and then understand the reasoning behind why a child does what he/she does. There is a need to understand the root cause of the child's behavior and hence the first suggestion would be to maximize the presence of psychologists and educate the police officers, workers employed in the rehabilitation centers or anyone who deals with young offenders. The workers, police officers and psychologists shall be trained well enough to understand the mindset of a child. Along with proper training, it is necessary to make sure that the rehabilitation center and other places where the juvenile is sent, these places shall be child friendly and in good condition. A 2013 report by the Asian Centre for Human Rights (ACHR), can be quoted saying "*It will not be an*

understatement to state that juvenile justice homes....have become India's hell holes where inmates are subjected to sexual assault and exploitation, torture and ill-treatment, apart from being forced to live in inhuman conditions."³³ Keeping same in mind, the quality of these juvenile homes and rehabilitation centers shall be improved. It is also important to create awareness regarding the mental health of children. There is stigma associated with mental health in the Indian society, and therefore the mental well-being of a child is never a priority. Hence, it shall be the duty of state and central government to organize campaigns in order to educate people about the importance of mental health. Although education has been made compulsory for children below 14, strict implementation of the law is need of the hour. The teachers in these schools shall also be well equipped to teach the children. Other solution can be as follows:

- In order to improve the outcome of rehabilitation, the situation of juvenile homes should be improved by providing cleaner washrooms, bedrooms, more activities to engage the child and educating children on subjects like life skills. Also, teaching them any one practical skill which can be used later in life. Such places shall be kept under constant check or else these places tend to become breeding grounds for more crime.
- The mental and psychological health of these juveniles shall be checked upon by a child psychologist time to time.
- Since many a times, the problems arise within the family itself, it is important to educate the families on importance of giving

³³ An alternate report to the United Nations Committee on the Rights of the Child on India's first periodic

report, available at:
<https://resourcecentre.savethechildren.net/sites/default/files/documents/2175.pdf>



proper care, affection and attention to the children.

- The police should be made more vigilant regarding the issues surrounding. The police authorities might lack the sensitivity required to deal with situations involving children accused of committing crime, hence programs to make them understand child mindset would be beneficial.
- The legislature should look for provisions which are more rehabilitative in nature rather than punitive.
- The board which is put in place to decide whether a juvenile shall be tried as an adult or not, shall consist of experienced and authorized psychologists/legal persons/doctors/officers only.
- People who are experienced in the field of child psychology shall hold extensive observation to understand the psyche of the juvenile offender as the report made by this board decides the future of the child and whether the child should be rehabilitated or sent off for punishment like the adult offenders.

Hence, the most effective way to combat the issue of juvenile delinquency is by rehabilitation and not punishment as the former offers proper guidance and training to the child which ensures that he does not go down the path of crime in future. Stricter implementation of JJA, 2015 is the need of the hour. One should remember that juveniles are not evil and hence they shouldn't be treated as one. The society needs to be more compassionate towards the children and rather than punishing the young offenders, focus should be shifted on their rehabilitation, while keeping in mind what is in the best interest of the child and society, alike.