



## JUVENILE DELINQUENCY: A NEW AGE OF CRIME

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### ABSTRACT

A juvenile is a child or a minor who hasn't attained the age of 18 years. India is in a developing stage. The crime rate in the juveniles is increasing day by day. The juvenile justice (Care and Protection) Act, 2000 which was passed by the parliament is the main and primary legal framework for the Juvenile Justice in India, which has further been amended in the years 2006 and 2010. In the reference to the Delhi Gang Rape Case 2012 the law relating to the Juveniles faced a nationwide criticism owing to its helplessness against crimes where the Juveniles (especially between the ages of 16-18 years) are involved in crimes that are heinous in nature such as Rape and Murder. The laws were further amended and changes were brought in the act in the year 2015. Under the act of 1986, Section 2(a) defined the term juvenile as a "boy who has not attained the age of 16 years and a girl who has not attained the age of 18 years".

**KEY WORDS:** Juvenile Justice, Minor, Child welfare association, Child Rights.

### INTRODUCTION

In the past few years, the rate of crimes committed by children under the age of 16 years has seen a gradual change. The change

doesn't show a positive report as the crime rate in this section has increased in the past. The crime amongst this age is a serious issue that needs to be addressed and kept an eye upon. In a report by the National Crime Report Bureau (NCRB) it has been seen that there has been a 47%<sup>1</sup> increase from the year 2010 to 2014 in the criminal activities committed by children under the of 16 years, not only this, surprisingly a major number in these crimes have been committed by the literate children. Another report by the NCRB states that the crimes committed by the literate children has seen an increase of 32% from 2016-2017, on the other hand there has been a decrease of 20% in the crimes committed by illiterate children from the years 2016-2017. This shows that children of well doing families or literate children are no behind in committing crimes. Apart from this the crimes that have been committed by the children are of heinous nature which makes it more worst for our society.

A Juvenile is a child who has not attained a certain age at which he cannot be held liable of criminal acts, like an adult person under the law of the land. A Juvenile is defined under the section 2(35) of the Juvenile Justice (Care and Protection) act, 2015 as "Juvenile means a child below the age of eighteen years"<sup>2</sup>. Hence, The Juvenile Justice System needs to be learnt and understood rightly as it is a very sensitive part of the law as it involves the youth of a country which needs to be shown the right part in life as they are the future of a country. Another major reason behind picking up this issue is that the Juveniles which are dealt with in the Juvenile Justice System are minors which is

<sup>1</sup> <https://ncrb.gov.in/table-juvenile-delinquency-2011>

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[https://shodhganga.inflibnet.ac.in/bitstream/10603/145628/6/06\\_chapter2.pdf](https://shodhganga.inflibnet.ac.in/bitstream/10603/145628/6/06_chapter2.pdf)



a sensitive age group of the society which needs to be handled carefully and with utmost sensitivity. The Juvenile Justice System creates a separate procedure for the persons who at the time of the commission of the crime had not attained the age of eighteen years. The case of a juvenile is fought in the similar manner as in the rest of the cases, apart from some differences than the normal cases. The main purpose of a Juvenile Justice Court or the Juvenile Justice System is that a separate court be made in which the purpose is socio-legal rehabilitation and reformative and not punishment. Hence, The Juvenile Cases are fought in an altogether different premises other than the normal courts these courts were initially known as the Juvenile Courts but after several amendments and reforms these courts came to be known as Judicial Justice Boards (JJB) which are made with an aim to be child friendly and reformative. The maximum sentence a Juvenile can be awarded under the Juvenile Justice Act, 2000 is upto Three Years of Jail in a special premises where there is no adult defaulters or where they can get better guidance and care compared to normal Jails. There are Detention Centres built with special features for the juveniles where a quality of care and rehabilitation measures are taken, facilities for education are also provided in these Detention Centres, the Juvenile offenders are provided with counsellors who help them get better in these detention centres, there are many more facilities that are provided in these Detention centres with the aim that these Juvenile offenders get a better life after their term of detention is over.

The objective of studying and carrying out this Research on this issue of Juvenile Justice is

that the offenders that commit a crime which is heinous in nature and which is committed by a minor who falls between the age of 16-18 years should be tried under the IPC and the CPC and shall be punished under the same and not under the Juvenile Justice Act, 2000. Such offenders shall be kept in the Jails and not the Special Detention Centres built for the Juveniles. This is because these offender are mature enough or in other words are sound enough to know the intensity or the nature of the criminal activity which they have performed or committed. Hence they shall not be given the privileges that are provided to the other Juvenile offenders in the Detention Centres.

This Research will be carried on with the Reference to the horrifying and unforgettable 2012 DELHI GANG RAPE Case which involved the rape and fatal assault that occurred on 16<sup>th</sup> December 2012 in the national capital Delhi. This incident involved a Juvenile Offender of the age of 17 years, who was tried differently under the Juvenile Justice Board and was punished under the Juvenile Justice Act, 2000 and not the IPC, while all the other offender who were majors at the time of the commission of the crime were tried in the normal courts and were recently punished with death sentence for the crime committed, whereas the Juvenile Offender was released after completing his Three year sentence in the Juvenile Detention Centre. Though after the DELHI GANG RAPE Case there are various changes that are thought to be made under the Juvenile Justice Act, 2000, Amongst which involves trying 16-18 year olds committing heinous offences, as adults and not as Juveniles.



### **METHODOLOGY**

The following research is a Doctrinal Study and is based on secondary data collected from books and e sources newspapers, articles, journals, etc.

### **HYPOTHESIS**

#### **Null Hypothesis**

According to the Null Hypothesis the Juvenile Justice Act,2000 was not misused by the minors committing crimes that are heinous in nature and should not be punished in adult courts.

#### **Alternate Hypothesis**

According to the Alternate Hypothesis the Juvenile do misuse the Age clause of the Juvenile Justice System and knowingly commit crimes that are heinous in nature so that they can get over their punishment easily and in a less period of time.

### **LITERATURE REVIEW**

#### **I. Juvenile Justice in India: A Historical Outline<sup>3</sup>**

By: Dr. Ratnaprava Barik and Dr. Jayanta Kumar Dash

International Law interprets, a 'Child' means every human being under the age of 18 years. The author in the paper briefly describes the whole history of the Juvenile Justice System in India including the Juvenile Justice Act,1986,2000,2014,2015. The paper involves the descriptions of all the Acts that were formed in regard to the Juvenile Justice in India, it also

includes the roots which cause the Juvenile crime in a country. The paper also describes the three kinds of Juvenile Crimes which are as follows:

- a) violent crimes which result in bodily injury such as rape, assault, murder etc.
- b) property crimes are committed when and when a juvenile uses force or threats to use force to obtain the property of others; and
- c) Drug-related crimes involve the possession or sale of illegal Drugs.

Towards the conclusion the author has made various suggestions to prevent the measure of Juvenile Crime in a country by signifying the Juvenile Justice in India.

#### **II. A Critical Study of Children under the Juvenile Justice System in India<sup>4</sup>**

By: Venudhar Routiya

The Future accomplishment of the nation depends upon how its children perform and execute. The author through the paper explains why it is necessary to execute the Juvenile Justice laws in a country effectively, because the youth are the base for a country's future and guiding and supporting the misguided youth is its utmost important task. The paper also studies the arguments which lead to the changes in the Juvenile Justice Act after the Nirbhaya Case, after which the

<sup>3</sup> <https://www.journalcra.com/sites/default/files/issue-pdf/32177.pdf>

<sup>4</sup> <https://www.researchgate.net/publication/306095708>

[\\_A\\_Critical\\_Study\\_of\\_Children\\_Under\\_Juvenile\\_Justice\\_System\\_in\\_India](#)



Juvenile Justice (Care and Protection) Act, 2015 was introduced.

### III. Juvenile Justice System in India<sup>5</sup>

By: Dr B.K. Das

The paper briefly explains the meaning and the concept of the Juvenile Justice System in India. Further the author briefly examines and explains the aftermath of the Nirbhaya case on the Juvenile Justice System of India, the Juvenile Justice System was then amended as there was strong public demand for harsher punishment for rape, robbery, murder, dacoit etc. committed by minors such youths must be punished like adults. The author has further explained the new JJ Act, 2015 by noting down the basic principles of the Act.

### IV. A Study on Juvenile Justice System in India before and after NIRBHAYA Case<sup>6</sup>

By: M. Ramachandran and M. VI. Kannappan

The paper presents brief study on the situation of the Juvenile Justice System in India especially focusing the situation before and after the Nirbhaya Case. In this, the authors have briefly described the history of the Juvenile Justice system in India. The author has also shown the involvement of the National Human Rights Commission (NHRC) in the Juvenile Justice System of India. Further, the author describes the new provisions of the Juvenile Justice Act, 2015 relating to the age determination of the juvenile and

taking into consideration the nature of the crime committed.

### V. Juvenile Justice System in India A Statutory and Procedural Study<sup>7</sup>

By: Mohan Shakti and Mahendra Tiwari

The law is always progressive but still it has certain gaps or loops holes that needs to be filled by effective reforming. Under the following research paper the researcher has covered a very wide angle of the topic. The paper includes the brief explanation and meaning of a number of topics. The paper involves the theories of Preventions of Juvenile Delinquency, it also involves the history of the Act in India. The laws related to the Juvenile Delinquency have also been highlighted in the paper, it also highlights the Judicial trends on Juvenile Delinquency by stating various case laws related to Juvenile Crimes.

### Juvenile Delinquency in India- A cause for concern<sup>8</sup>

By: B.R. Sharma, Sangeet Dhillon And Sarmadi Bano

The early age problem behaviour must not be neglected for two major reasons: it is predictive of a future which could be more serious and could result in problems if not acted upon. The authors in this paper explains why the Juvenile Delinquency is a major cause of concern for our society, as the minors are the future of our country and the future of a country must be productive and not destructive. The minors committing crimes in such a small age must be handled with utmost diligence

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[https://www.worldwidejournals.com/paripex/recent\\_issues\\_pdf/2016/May/May\\_2016\\_1462622103\\_\\_64.pdf](https://www.worldwidejournals.com/paripex/recent_issues_pdf/2016/May/May_2016_1462622103__64.pdf)

<sup>6</sup> <https://acadpubl.eu/hub/2018-119-17/2/106.pdf>

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<https://shodhganga.inflibnet.ac.in/handle/10603/145628>

<sup>8</sup> <http://medind.nic.in/jal/t09/i1/jalt09i1p68.pdf>



but must not also be neglected for their acts, hence special laws must govern the punishments that shall be given to the **IX.** Juvenile Offenders.

**VII.** The Law for Juvenile Injustice: Critical Analysis of Juvenile Justice (Care and Protection) Act, 2015<sup>9</sup>

By: Mr. Aniruddha Vithal Babar

Under this article the author has introduced the topic by presenting a historical origin and the evolution of the Juvenile Justice System in India. Further the paper includes the International stand on the rights of the children along with the relevant articles which are defined under the UN Convention on Rights of Child, 1989. Then the author briefly compares the laws for Juveniles of different countries, and **X.** then concludes the paper by presenting the stand of the supreme court on the Juvenile Justice Act, 2015.

**VIII.** Juvenile Delinquency in India- Latest Trends and Entailing amendments in Juvenile Justice Act<sup>10</sup>

By: Deepshikha Agarwal

Juvenile Delinquency is a serious offence and it is detrimental for the social order in any country. Under this paper the researcher has covered a various numbers of issues that relate to the topic, the paper aims to delve into the causes for the Juvenile Delinquency it briefly evaluates the Juvenile Justice Act and the Juvenile Justice System in India and the important provisions of the Act. The paper also provides a link between the latest

amendments made in the JJ Act with the statistical data collected by the NCRB.

The Juvenile Justice Act 2015- Critical Understanding<sup>11</sup>

By: Ved Kumari

The Juvenile Justice (Care and Protection) Act, 2015 has heralded a new era of juvenile justice in India by introducing the provision to transfer children between the age of 16-18 years old alleged to have committed a heinous offence to an adult criminal court. The author in the paper has briefly explained the provision of the new JJ Act, 2015 which was introduced after the Nirbhaya case, the causes and effects of the act have also been evaluated in the paper.

**X.** Juvenile Justice( Care and Protection) Act, 2015<sup>12</sup>

By: Kartik Sabharwal

The paper presents all the aspects of the JJ Act, 2015. The author has briefly explained the reasons this act was introduced and adopted, the paper also explains all the facts of the act very impressively.

**Who is a Juvenile ?**

A juvenile can be defined in different ways, as per the meaning in the English Dictionary Juvenile means childish or immature, it means a young person who is not old enough to be considered as an adult. The term Juvenile is also defined by the Indian Constitution under the Section 2(k) of the

<sup>9</sup> <http://thelawbrigade.com/wp-content/uploads/2019/05/Aniruddha-Babar.pdf>

<sup>10</sup> <https://grdspublishing.org/index.php/people/article/view/1056>

<sup>11</sup> [https://www.jstor.org/stable/45163062?casa\\_token=JgNMLcF2bNQAAAAA:ts1LmOGkzvdsGNof98HK](https://www.jstor.org/stable/45163062?casa_token=JgNMLcF2bNQAAAAA:ts1LmOGkzvdsGNof98HK)

<sup>12</sup> <https://www.wisdomcrux.lawtimesjournal.in/index.php/2017/08/02/juvenile-justice-care-protection-children-act-2015/>



Juvenile Justice(Care and Protection) Act,2000 as a ‘Child’ or ‘Juvenile’ person who has not completed eighteen years of age. The Juvenile Justice Act,2000 defines the term juvenile in a much easier and less complex manner which becomes easier to understand to the general masses.

**Why is there a need to create a separate Institution for the Juvenile Justice?**

The Juvenile offenders are treated differently as compared to the adult offenders who are punished under the IPC and are kept in the criminal jails. The reason behind treating the juveniles differently is that the research shows that the children that are prosecuted in the adult criminal justice system instead of the juvenile system are more likely to reoffend than those who have been kept in the juvenile system from the beginning. It is often seen and observed that the children who are kept in the adult criminal justice get a negative impact on their lives and are affected by that for their entire lives. It has been seen and believed that the children are less difficult to influence, hence it becomes easy for people to influence children to commit crime which children do not intend to commit or don't even know the consequences to, or the crimes that are committed by the children are committed by them being unaware of its consequences and punishment, which they do not intend to commit. Hence, the juvenile offenders do deserve a second chance in life so that they could change their life around and get ahead of the life. For this they require proper guidance and support emotionally, physically, mentally and socially.

The Juvenile Courts or the Juvenile Justice Boards are designed in a manner to provide

the juvenile offenders with the proper guidance and support in every way possible which could not be provided under the criminal courts. The Juveniles are provided with every basic facility which would help them grow and improve in life. There are educational facilities that are also available in the juvenile detention centres where it is ensured that no one misses their basic education even while completing their sentence in the jail. The juveniles are also given counselling in these centres so that they follow the right path in life and never turn around to the path of crime after completing their sentence and coming out of these detention centres. The whole Juvenile Justice System in India is designed in way that the minor offenders or the juveniles who commit criminal activity after being punished under the JJ Act never turn behind to committing any sort of criminal activities in their whole life's.

**History of the Juvenile Justice System in India**

The history of the Juvenile Justice System has been very old and ancient; the Juvenile Justice System was started in India when the first legislation on the Juvenile Justice came in the 1850 with the Apprentice Act 1850 which required that the children between the age of 10-18 years should be convicted in courts that are to provide vocational training to the inmates as a part of rehabilitation process. This act was further replaced by the Reformatory Schools Act, 1897 which subsequently provided that children up to the age of 15 years may be sent to the special reformatory cells.

**Juvenile Justice Act,1986**

The JJ Act,1986 was the first and foremost act that was formally formed and legalised in



India after the adopting the United Nations Standard Minimum Rules for the administration of the Juvenile Justice. India was the first country to develop its system of the Juvenile Justice in accordance of the principles enunciated therein. The primary objective of creating this act was to provide a special approach towards the prevention and control of the Juvenile Delinquency in the Country, to establish norms and standards for the administration of Juvenile Justice and to create a different setup of courts where the juveniles would be tried and punished which is different from the adult criminal courts where the Juveniles are kept with more care and guidance.

#### **Juvenile Justice (Care and Protection of Children) Act,2000**

There were changes that had to be bought to the existing juvenile Justice system which was the JJ act, 1986 so that the justice system for the Juveniles could be more efficient. However, due to the absence of a general agreement nationwide on this topic at the time frame for such a restructuring, the steps taken by most of the State Governments were heavily short of the proclaimed goals and were not efficient enough. In order to create a new and more effective law for the juvenile justice the government of India re-enacted the Juvenile Justice (Care and Protection of Children) Act,2000. This act focused on providing the juvenile offenders with proper care, protection, treatment and cater to their development needs the act focused on providing a more child friendly approach keeping their best interest in mind while dealing with them.

#### **Juvenile Justice (Care and Protection) Act,2015**

After facing great outrage from the masses the government despite lacking a majority managed to pass the bill in the parliament for the formation of this act. The earlier act i.e., JJ Act,2000 faced strong opposition and condemnation from various sections of the society after which the Juvenile Justice (Care and Protection) Act,2015 was enacted which now allows children in the age group of 16-18 years to be tried as adults if they commit a crime which is heinous in nature. The amendments were made in the backdrop of public outcry over the 2012 Delhi Gang Rape Case in which one of the offenders who was a juvenile at the time of commission of the crime received a lighter sentence because of his age.

#### **Constitutional Provisions for children in India**

Part III and Part IV<sup>9</sup> which deal with fundamental rights and Directive Principles of State Policies contain some special provisions which safeguard the children from some specific provisions of the Law

Article 15(3): Permits the State to make special provisions for children and women

Article 23: Prohibits the traffic in human beings and forced labour

Article 24: Forbids the employment of children below the age of 14 years in factories, mines and other hazardous occupations

Article 39 (e): Directs the State to safeguard the tender age of children from entering into jobs unsuited to their age and strength forced be economic necessity

Article 39 (f): Directs the State to secure facilities for the healthy development of children and to protect childhood and youth against exploitation and moral and material abandonment.



Article 45: Requires the State to provide free and compulsory education to all children up to age of 14 years.

Article 47: states it is the duty of the state to raise level of nutrition and standard of living. Parliament has enacted the 86th Constitutional amendment in 2002 and made Right to Education a fundamental right.

### **Aftermath of the Nirbhaya Case**

The Delhi Gang Rape Case or the Nirbhaya Case brought a huge change to the Juvenile Justice System in India. The Nirbhaya Case, in which the victim was brutally raped and assaulted in a moving bus in the national capital by 6 men, amongst which there was a juvenile who was 17 years of age at the time of the commission of the crime. In a recent judgement by the Supreme Court four of these men were hanged to death for the crime committed. Where all the adult criminals were given the punishment of death, the juvenile got released 3 years after the crime, after completing his sentence in a Juvenile Detention centre. He was sentenced the highest punishment which was possible in the case of a juvenile. This faced a huge outrage of disappointment against the existing Juvenile Justice Act, 2000. After which the supreme court received a number of petitions stating to amend the Act, the supreme court ordered the Government to bring changes to the Juvenile Justice System. As a result of which the Juvenile Justice Act, 2015 came into force. The Juvenile Justice Act, 2015 states that the juveniles falling in the age group of 16-18 years shall be tried as adults if the crime committed by them is heinous in nature. The law is enacted taking into consideration of conventions of Right of the Child and other related international instruments. The government of India acceded the convention of Rights of the Child

(CRC) on 11 Dec, 1992. The constitution of India empowers and cast duty on the state to ensure that their minimum requirement are met and their basic human rights are fully protected.

It was important to form an act which punishes the juveniles as adults because it was easy for minors to commit crime and get away with the punishment easily as they could be punished for a maximum sentence of 3 years in the Juvenile Detention Centre. This had increased the crime rate amongst the juveniles by a huge number in the past few years. According to the data provided by the National Crime Records Bureau the crimes committed by the juveniles has seen an increase of 47% in the year 2014 which is a very big number. Hence to reduce the number of Juvenile Delinquency in the country it was important to form a more stricter act that would punish the juveniles according to the crime committed by them. In a recent case the Delhi High Court has dismissed the petition of a youth seeking trial as a juvenile in a case in which he had allegedly run over a person with his father's Mercedes in 2016 while he was a teenager. There was another case where a student of 11<sup>th</sup> class of Ryan Public School, Sohna Road killed a junior student so that their exams could get postponed. These are cases which show that the Juvenile Justice System Required a harsher punishment for the children who commit crimes that are heinous in nature.

Another Case where A Single Judge Bench comprising of Mridula Bhatkar, J. allowed a petition challenging the Juvenile Justice Board, Sangli's order passed on 19-1-2018 and 13-7-2018, committing a child who has



not committed the heinous offence to Children's Court.

In the present case, petitioners concerned were not adults when they had attempted to commit an offence of murder which is punishable under Section 307 of the Indian Penal Code. They were all aged 17 years at the time of the commission of the offence and were admittedly falling under the definition provided under the Section 2 (12) of the Juvenile Justice (Care and Protection of Children) Act, 2000.

### **Conclusions and Suggestions**

The Juvenile Delinquency is a harsh reality of the society which needs to be controlled and reduced. In order to attain these goals there must be an Act which punishes the minors which the minors are afraid of, so that before committing any kind of criminal activity the minors think of the punishment that would be given for the crime they are thinking to commit. It is believed in the Juvenile Justice System that the juveniles who commit crime at a younger age need special care and protection which could help them get better in life and grown as a responsible individual in their future rather than becoming criminal offenders for the rest of their lives, for this there are separate institutions in which only the juvenile cases are tried and are not mixed with the adult offenders. The juvenile Detention centres or Children jails provide various facilities which are not provided in the adult jails, these facilities help the juveniles to grow and prosper in life.

Minors who used to commit crimes that are heinous in nature could also get away with a maximum sentence of 3 years in Juvenile

Detention Centres. Such a similar thing happened in the Nirbhaya Case in which one of the accused was of the age of 17 years which comes under a Juvenile Court, hence he was acquitted early after serving his sentence for just 3 years in the Juvenile Detention Centre. The age group between 16-18 years is a age group which is capable of knowing the after effects of their actions whether it is criminal or civil, hence they shall not be included in the Juvenile Justice System at least for the crime that is Heinous in nature like murder, rape, dacoity etc. According to the 2015 Act for a crime committed by a child, who is of sixteen years, a Preliminary assessment must be conducted by the Juvenile Justice Board to assess his/her mental and physical capacity to commit such offence and the ability of the convicted to understand the consequences of the offence and the circumstances in which he/she has allegedly committed the offence.

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