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# Juvenile Delinquency: A Socio-Legal Perspective

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## ABSTRACT

*Juvenile Delinquency alludes to the solitary or crime of the youngster (beneath 16 years old for young men and 18 years for young ladies) which disregards the law. In an obvious setting, that equivalent movement would have been delinquency if it was submitted by the grown-up. I have selected this topic because it is much of controversy. In my research, I will discuss the evolution of the concept of Juvenile Delinquency, what influences a juvenile to commit delinquency, and how we can treat them. And The Juvenile Justice Act, 2000 and Juvenile Justice (Care and Protection of Children) Act, 2015.*

**Keywords:** *Juvenile, Delinquency, crime, disregards.*

## I. JUVENILE DELINQUENCY: AN OVERALL PERSPECTIVE {INTRODUCTION}

Juvenile Delinquency is the participation by a minor kid, as a rule between the ages of 10 and 17, in unlawful conduct or exercises.<sup>3</sup> Juvenile Delinquency is likewise used to allude to kids who display tenacious conduct of evil or noncompliance, to be considered out of parental control, getting subject to legal activity by the court framework. At the point when minors show repeating examples of this kind of conduct, they may get known as "juvenile delinquents." Today, it has gotten a subject of prodigious concern and ought to be analyzed at an authentic note. The multifaceted design forms as we go into the quantifiable data of made countries when diverged from the up 'til now making ones. An aggregate of 44284 violations was submitted by the juvenile offenders during 1978 which showed an extension of 0.6% more than 1977. It has been seen that robbery and burglary add to a significant level of these wrongdoings. Murder, assault, dacoity, robbery, capturing are a few more that add to its remainder. Given the accessible insights, a deriving can be drawn that these infringements are on the extending way. ***The term 'juvenile' has been defined in clause (h) of Section 2 of the Juvenile Justice Act, 1986. The term 'delinquency' has been defined in clause (e) of section 2 of the Juvenile***

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<sup>3</sup> Legal Dictionary, <https://legaldictionary.net/juvenile-delinquency/>, [Last Seen on June 07<sup>th</sup>, 2021]

*Justice Act, 1986*<sup>4</sup>.

## II. JUVENILE DELINQUENCY: THE SCOPE AND RULES

The following Standard Minimum Rules<sup>5</sup> will be applied to juvenile offenders fairly, without distinction of any sort for instance to race, color, sex, language, religion, political or other opinions, national or social origin, property, birth, or different status.

For reasons for these Rules, the accompanying definitions will be applied by the Member States in a way which is perfect with their lawful frameworks and ideas:

- (a) A juvenile is a kid or youngster who, under the particular legitimate frameworks, might be managed for an offense in a way which is not the same as a grown-up;
- (b) An offense is any conduct (demonstration or exclusion) that is punishable by law under the particular lawful frameworks;
- (c) A juvenile offender is a kid or youngster who is claimed to have committed or who has been found to have committed an offense.

Endeavors will be made to build up, in every national jurisdiction, a lot of laws, rules, and provisions explicitly relevant to juvenile offenders and foundations and bodies endowed with the elements of the organization of juvenile justice and planned:

- (a) To meet the differing needs of juvenile offenders, while securing their fundamental rights;
- (b) For meeting the needs of the society;

To actualize the accompanying standards completely and decently.

The Standard Minimum Rules are purposely detailed to be material inside distinctive legitimate frameworks and, simultaneously, to set some base norms for the treatment of juvenile offenders under any meaning of a juvenile and under any arrangement of managing juvenile offenders. The Rules are consistent to be applied unbiased and without differentiation of any sort.

**Rule 1** hence focuses on the significance of the Rules continually being applied fair-mindedly and without qualification of any sort. The standard follows the plan of principle 2 of the Declaration of the Rights of the Child.

**Rule 2** characterizes "juvenile" and "offense" as the segments of the idea of the "juvenile

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<sup>4</sup> Legal Serices India, <http://www.legalservicesindia.com/article/626/Juvenile-delinquency.html>, [Last Seen on June 01<sup>st</sup>, 2021]

<sup>5</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), [PDF File], Adopted by General Assembly resolution 40/33 of 29 November 1985

offenders", who is the primary subject of these Standard Minimum Rules (see, in any case, additionally rules 3 and 4). It ought to be noticed that age cutoff points will rely upon, and are expressly made depend on, each separate legitimate framework, along these lines completely regarding the economic, social, political, cultural, legitimate frameworks of Member States. This makes for a wide arrangement of ages going under the importance of "adolescent", going from 7 years to 18 years or above. Such an assortment appears unavoidable taking into account the distinctive national legitimate frameworks and doesn't lessen the effect of these Standard Minimum Rules.

Rule 2.3 is routed to the need for explicit national legislation for the ideal execution of these Standard Minimum Rules, both lawfully and partially.

### **III. THE FACTORS RESULTING IN JUVENILE DELINQUENCY**

Every adolescent offense is the result of the multifaceted nature of causes, a portion of whose inceptions go back a long time before the committal of the offense and others whose inceptions are all the more clearly and right away associated with the demonstration of wrongdoing. It has been indicated that an alternate set of causes is associated with every individual case. It is outlandish therefore to state the group of causes which will constantly result in a specific offense. Notwithstanding the incredible multifaceted nature and assorted variety of the reasons for wrongdoing, cases are found to share numerous variables practically speaking. The various mixes of these elements are to a great extent answerable for the contrasts in offenses.

Some of the factors contributing to Juvenile delinquency are:-

- 1) Physical Factors: Malnutrition, Developmental aberrations, Deformities, Sensory Defects, Drug addiction<sup>6</sup>.
- 2) Mental Factors: Mental Defect, Psychopathic constitution (including emotional instability), mental conflicts, Inferiority complex, Introversion, and egocentrism.
- 3) Home Conditions: Material deficiencies, Poverty and unemployment, broken homes, Lack of parental care and affection, Lack of confidence and frankness between parent and children.

#### **(A) Physical Factors**

The substantial state of a kid may influence his conduct in one or a greater amount of three different ways. To start with, it might be the immediate reason for reprobate conduct. Besides, it might shape a debilitation to the youngster's accomplishment or then again the good

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<sup>6</sup> K.M. Banham Bridges, 1927, Factors Contributing to Juvenile Delinquency, 17, 532-567 (May 29<sup>th</sup>, 2021, 9:35am) <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=2038&context=jclc>

connection with other youngsters and grown-ups, as in the instance of unhealthiness and deformities. Delinquency may result in an attempt on the part of the youngster to make up for these disabilities. Thirdly, substantial conditions, for example, certain developmental aberrations also, physical extravagance may gracefully a pointlessness of vitality that discovers an outlet in delinquency. The various physical conditions of the kid which may along these lines decide delinquency are laid out in the accompanying passages.

### **1. Malnutrition**

Malnutrition can occur due to too little food, adequate food may not be given either through poverty or carelessness. Inappropriately chose food, suppers might be given which have lack or disproportion in the basic components of diet: proteins, starches, fats, inorganic salts, vitamins, and water. Terrible cooking, rendering the food unappetizing and toxic. Not having meals in proper time, making failure digest the food when meals are excessively near one another, and undue strain upon the framework resulting in faulty digestion when they are excessively far separated. Upsetting environmental factors during eating times. Awful states of being, for example, rottenness may excite the feeling of disturb thus restrain the digestion process. Additionally miserable individual connections, for example, prodding by a sibling or sister or scolding by a parent may offer ascent to disturb or outrage and so prevent proper digestion of food. Particularity concerning the youngster, refusal to eat certain nourishments. This might be because of causes referenced above, or to pampering, or to want for attention. Malnutrition may cause inertia and mental languor or hyperexcitability and anxiety in a youngster. Any of these conditions may lead to misconduct. The youngster may turn into the sport of awful recommendation or the device of his sentiments and driving forces. Or he may reimburse for his incapacities in delinquent conduct.

### **2. Developmental Aberrations**

These may occur due to delayed, premature, or abnormal pubic development which is due to glandular disorders, malnutrition, or physical diseases. Retarded, excessive, or abnormally disproportionate growth of frame or organs of the body which may be the result of glandular disorders, malnutrition, or physical and nervous diseases. Poor development or excessive development of muscular strength, which relies on other developmental components, nutrition, and, the chance for robust activity.

Delinquencies are the aftereffect of developmental aberrations that might be compensatory where improvement is postponed and poor, the kid wishing to prove his masculinity to himself and others and the young lady wishing to prove her womanhood. Sex offenses might be of this sort. Strange development and advancement, especially excessive growth and strength, may

likewise bring about delinquency through the profuse energy and instinct to action which they create.

### **3. Deformities**

These might be of the appendages or trunk and can be the aftereffect of accidents before, during, or after birth, the consequence of heredity, or the malady. Regardless of whether evident to others or not a distortion may make its owner feel inferior and embarrassed, and he may go to misconduct in a departure from the loathsome (to him) reality and an attempt to make up for the deformity. A specific type of disfigurement which may cause this outcome is noticeable strabismus (squint).

### **4. Drug addiction**

Drug-obsession among the juveniles incites them to perpetrate petty crimes. Taking drugs by juveniles now days is very common. Addiction creates a disturbance in the family and also creates a hostile atmosphere in the family. This atmosphere is highly perilous to the other child of the family. The parents must take care of their children otherwise they may indulge in the commission of the offense<sup>7</sup>

### **5. Sensory Defects**

These may happen in any of the unique sense organs, for example, eyes, ears, the organ of smell, taste-buds, cutaneous sense organs, and kinesthetic sense organs.

However, by a wide margin the most significant as reasons for misconduct seems to be:

- a. Flawed visual perception, which might be because of infection or imperfection in the eye or neural associations, too sick wellbeing, muscular strain, or to exhaustion.
- b. Blemished hearing, which might be because of malady or imperfection in the organ of hearing or its neural associations, to malnutrition or too ill health.

These imperfections will set the kid off guard when in rivalry with others both all through school. He may attempt to re-establish fearlessness and a feeling of prevalence by turning over misconduct.

### **(B) Mental Factors**

Mental elements, as physical components, may decide reprobate conduct in at least one of three different ways: (1) Delinquency might be the direct reaction to, or articulation of, a specific mental state, for instance, obsessive imagery. (2) Delinquency might be the expression of certain impulses or feelings left uncontrolled or animated by an uncommon state of mind, or it

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<sup>7</sup> Mohan Sakti ,Theories and Causes of Juvenile Delinquency, Sodhanga, (May 29<sup>th</sup> , 2021, 9:40 am) [[https://shodhganga.inflibnet.ac.in/bitstream/10603/145628/7/07\\_chapter3.pdf](https://shodhganga.inflibnet.ac.in/bitstream/10603/145628/7/07_chapter3.pdf)]

might be an emblematic portrayal of such impulses. (3) Delinquency might be an endeavor at modification or remuneration for certain psychological quirks. Following is a diagram of the psychological elements which add to reprobate conduct:

### **1. Mental Defect**

Mental imperfection is characterized as a mental hindrance, mind harm, or other natural brokenness that is related to trouble or incapacity causing manifestations or debilitation in at any rate one significant territory of a person's working. The term mental deformity as utilized here is equal with the word senility and represents a lack in mental advancement to the degree that social consideration of the inadequate individual is required inconclusively.

Mental imperfection might be considered to decide delinquency in so many ways like, through the absence of valuation for values. Delinquency and misconduct might be submitted because of ordinary or irregular driving forces unchecked by alert and consideration for others or their property, through powerlessness to benefit by understanding or to recall outcomes both of the person's activities or those of others, through failure to mask reprobate activities or to sidestep the location of such acts, regardless of whether they act naturally started or simply imitated accidentally. This isn't a reason for wrongdoing however a reason for its being brought to the notification of grown-ups, through powerlessness to learn ordinary good codes and make the typical qualifications among good and bad, through the absence of assets for the articulation of mental and physical vitality, that is through the absence of mental symbolism, imagination or organized interests and by failure to fulfill the needs made upon the person at school or home or in rivalry with others of a similar age. The mediocre kid may get reprobate to make up for his inadequacy and to advocate for himself before others. He may likewise flee from home or play truant by method for an escape from his challenges.

### **2. Psychopathic constitution (including emotional instability)**

Psychopathic or "constitutional psychopathic inferiority" are terms frequently cited by therapists and juvenile court authorities, to account for acts of delinquency. What these terms stand for is to somewhat indefinite, but it seems to be whatever isn't elucidated by mental defect, psychosis, or psychoneurosis, and is to a great extent characterized by abnormalities in the inclination and passionate existence of the person. Those people having psychopathic constitutions are the ones who are depressed, emotionally deficient, susceptible, and hypersensitive. The depressed and overly hypersensitive insane people are continually confronted with issues of social adjustment which are particularly hard for them to elucidate. In the process of solution, delinquency may occur as a real attempt at acclimatization, being

the better of two or more shades of malice, or it might be because of a wild upheaval during the time of the mental battle. The emotional deficit and the hypersensitive types are more likely to commit crimes and delinquencies of physical injury or ones including demonstrations of extraordinary brave. They feel neither for themselves nor other people. Based on a psychopathic constitution an individual may create a psychosis, psychoneurosis, or a "psychopathic character" concurring to the nature of the circumstances in life which he is called upon to face. Any of these states of mind, as demonstrated somewhere else, will bring about anomalous conduct and potentially in delinquency.

### **3. Mental conflicts**

A psychological clash exists when one experiences a propensity to act in two or more incompatible ways simultaneously. The act might be one of good choice or judgment or it might be unmistakable conduct and it is always accompanied by a more prominent or lesser level of feeling. It is a typical and inescapable experience for everyone, except it tends to be strange under the accompanying conditions: when especially delayed without an answer being discovered; when accompanied by extremely serious feeling; or when the final expression of the activity in the deadlock takes a structure which is adverse to social welfare or to that of the person. Mental clashes happen during adolescence, during the change per the real world, during the change per power, during changes by self.

The result of a psychological clash might be conducted which is commonly fulfilling to the individual and society. The aftereffect of the conflict may likewise be a triumph for against social driving forces which lead directly to misconduct, for example, stealing, brutality, sexual offenses, etc. Thirdly and finally, the contention may bring about triumph for the inclination to act in a socially affirmed manner and incomplete inhibition of a drive or tendency to act in a socially undesirable manner.

### **4. Inferiority complex**

A "feeling of inferiority" in any human trait might be very conscious, semi-conscious, or repressed and unconscious. A feeling of inadequacy may arise out of an actual defect, physical or mental; or it may develop on the foundation of an alleged inadequacy. In instances of the latter type, the belief in his inferiority is often imparted into a kid through his characteristic suggestibility by ignorant or careless mothers, attendants, instructors, or playmates. A youngster might be idiotic at his lessons since he has been called dull. He won't attempt when the assignment seems unprofitable.

There are thus two types of articulation of an inferiority complex:



a. Direct expression, as in the promptly previous example where the kid won't exert any effort to improve upon his genuine or assumed inadequacy. He is modest, resigning, melancholy and may lapse into misconduct for the need of encouragement to better conduct. He may turn to simple types of stealing, truancy, vagrancy, and such.

b. The compensatory response, as on account of the kid with a "masculine protest." His little self-image, refusing to admit its defeat in a few regard, endeavors to advocate for itself in the easiest conceivable way, very often in delinquency, or the kid who has less pocket-money than other young men may attempt to turn into a hero in their eyes by committing brave robberies, harming property, etc. A dull kid will frequently become incorrigible in school just to gain the attention that he would otherwise get if he were effective in school subjects.

## **5. Introversion and egocentrism**

By introversion, it is implied direction of attention inward upon one's dreams, sentiments, and impulses. The physical handicap, the ignominy of poverty, the educator's injustice and such may gradually fill the entire of a youngster's attention, turning out to be increasingly more intolerable until a violent motivation is experienced to accomplish something in compensation, to flee from school, to cheat, to steal or to become incorrigible in class. A boy or girl who is looked upon by elderly people as a decent, calm youngster might be only one of this introverted kind who will break out of the blue into delinquency. The youngsters who are most likely to develop egocentric and introverted kinds of character are those who have been particularly pampered at home, the individuals who are altogether different in one or more respects from other kids with whom they need to relate, or the individuals who have no open door for pleasurably occupying their extra time.

### **(C) Home Conditions**

Home conditions must be circuitous reasons for misconduct. They respond upon the youngster's mind and body amending his psychological and physical condition which in turn decides his conduct.

#### **1. Material deficiencies**

Material elements decide a kid's physical prosperity, yet they additionally have a far-reaching impact upon his psychological turn of events. They decide his self-respect and confidence among his colleagues, and his capacity to control his instincts. Like lack of proper clothes, pocket-money, and personal property. If for instance, his clothes are not of the sort worn by other kids of the same age in the locale, they may make the kid become self-conscious, shy, and resigning (maybe through other youngsters' giggling), furthermore, out of his isolation he

may create delinquent habits. Without pocket-money, a modern child feels inferior compared to his companions but more importantly, still, he cannot learn the value of money and tends to steal it to make up for the deficiency. Youngsters in the desire to possess things and not having things may end up stealing in order to possess things this instinct comes due to the cherishing and evaluation of a property.

## **2. Poverty and unemployment**

Upon these causes alone depend numerous others, for example, ill-health, overcrowding, neglect, ill-tempered guardians, etc. 55 percent of youthful delinquents in London originate from homes that are beneath the poverty line. Thefts of numerous types result from the basic inclination for food, garments, and shelter, and the desirous want for a portion of life's extravagances. Unemployment causes a similar condition of undertakings. Insights in the huge urban communities show that during serious winters and depression in trade, burglaries, "hold-ups," and robberies increment in number.

## **3. Broken homes**

This condition might be considered as a significant factor in delinquency. If for instance the parents are dead, or they are separated or divorced the kid might be without the necessary example, discipline, or affection which ought to go to further his complete personnel and moral developments. As indicated by regardless of whether the treatment of the youngster be too lax or pointlessly harsh, the kid may develop delinquent propensities of the nature of uncontrolled driving forces or the compensatory type

## **4. Lack of parental care and affection**

The feeling side of a kid's character needs proper nourishment for healthy development similarly as his body does. The kid who is denied compassion and warm consideration at home misses his first example and training in a great association, graciousness, and thought for other people. He misses the help from the passionate strain of social contacts and the balm of individual comfort. Without this the kid may become introverted, carrying little for others, neglectful of social responsibility, narrow-minded and impolite. He may become independent, antisocial, and even barbarous in his conduct. Or on the other hand, he may turn out to be abnormally pleasure-loving or be forever requesting compassion toward himself. He may turn delinquent through the absence of discipline or in an attempt to make up for the absence of enjoyment at home or the need for material solace.

## **5. Lack of confidence and frankness between parents and children**

The most critical factor in the conduct improvement of a kid is the relationship with their guardians. The relationship with a family is significant in forming the inter-personal conduct and cognition of the kid. The kid who can't make a companion of his guardians share his inclinations to them will try to make companions somewhere else, maybe of an undesirable nature, or he will resign within himself and become introverted. In either case, he will get alienated from his parents and separated from their impact. There must be frankness among guardians and youngsters as to sex matters as a result of the secret encompassing inquiries of sex, the wrong beliefs which endure among ignorant individuals, and the intense feeling such issues stimulate in the developing kid or young lady. A kid who finds no ideal opportunity for honest conversation may brood for quite a long time or even a very long time over a psychological conflict as to sex. This contention may have been set up as a consequence of accepting bogus information from an outside source or as a consequence of the advancement of an unnatural and unwholesome view towards sex. The youngster may turn delinquent as alleviation from the strain or on the other hand by way of compensation, or because of pure ignorance. Numerous sex misconducts are seen as the outcome of the absence of candor among youngsters and guardians.

#### IV. PRISON POLICIES: CASES STUDIES

1. The Supreme Court has always been sensitive and active in the problems and needs of juvenile offenders. The Constitution also mandates the court to interpret the provisions in such a way to provide relief and give individualized treatment.

Regarding basic rights and the plight of juvenile offenders, P.N. Bhagwati and R.S. Pathak JJ, in **Munna & Others Etc vs the State of U.P**<sup>8</sup>, held:

*"Juvenile Delinquency is by and large the product of social and economic maladjustment. Even if it is found that these juveniles have committed any offense, they cannot be allowed to be maltreated. They do not shed their fundamental rights when they enter jail. Moreover, the objective of the punishment being reformatory, we fail to see what social objective can be gained by sending them to jail where they come in contact with hardened criminals and lose whatever sensitivity they may have to finer and nobler sentiments".*

In this case, numerous juveniles under trials were kept in Kanpur Central Jail, where they were by and large sexually exploited by the grown-up detainees, even though there was a children's home in Kanpur. The court observed that no individual under 16 years of age should be sent to

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<sup>8</sup> 1982 AIR 806, 1982 SCR (3) 47

prison, rather he should be kept in a children's home or some other reasonable spot of security, as the law is exceptionally worried about guaranteeing that a juvenile doesn't come into contact with hardened criminals and his chances of renewal are not belied by contact with habitual wrongdoers.

2. The Supreme Court in **Sheela Barse & Ors vs Union of India & Ors**<sup>9</sup> pm, condemned and discouraged the detention of children below 16 years in jail, in a milestone decision. The court observed:

*"It is a matter of regret that despite statutory provisions and frequent exhortations by a social scientist, there are still a large number of children in different jails in the country.... It is the atmosphere of the jail which has a highly injurious effect on the mind of the child, estranging him from the society and breeding in him aversion bordering on hatred against a system which keeps him in jail .... On no account should the children be kept in jail and if a state government has not got sufficient accommodation in its remand homes or observation homes, the children should be released on bail instead of being subjected to incarceration in jail".*

3. In another case in the series, **Sheela Barse vs Secretary, Children Aid Society & Ors**<sup>10</sup> pm, an appeal was made against the judgment and the order for the high court on the ground of high courts failure to contemplate a few controversies. It was held there was a requirement for special preparing to child welfare officials (Probations Officers), superintendence of observation homes, judicial officials of juvenile course, and works of the home. Children of the homes ought to be kept occupied with suitable occupations, however, they should not be paid compensation for their work. The State Government was directed to act in confirmative with legal and constitutional obligations and to execute the directions of the high court and the Supreme Court.

4. **Sheela Barse & Ors vs Union of India & Ors**<sup>11</sup>, the Supreme Court again declared the addition of non – criminal, mentally ill youngsters and grown-ups to prison, unlawful and illegitimate.

5. In **Sanjay Suri vs Delhi Admn**<sup>12</sup> pm, the Supreme Court expressing concern over human rights of juvenile delinquents laid down some directions:

*"...due care shall be taken to ensure that the juvenile delinquents are not assigned work in the same area where regular prisoners are made to work. Care should be taken to ensure that*

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<sup>9</sup> JT 1986 136, 1986 SCALE (2)230

<sup>10</sup> Sheela Barse vs Secretary, Children Aid Society & Others , 1987 AIR 656, 1987 SCR (1) 870

<sup>11</sup> Sheela Barse & Ors vs Union Of India & Ors, JT 1986 136, 1986 SCALE (2)230

<sup>12</sup> Sanjay Suri & Anr vs Delhi Administration, Delhi & Anr, 1988 AIR 414, 1988 SCR (2) 234

*there is no scope of their meeting and having contacts.... that steps should be taken to shift the wardens at the end of every three years .... Such transfer will help restore discipline in the jails".*

6. Krishna Iyer J in **Hiralal Mallick vs the State of Bihar**<sup>13</sup>, concerning the sentencing policy towards juvenile delinquents, perceived, The family tie of the juvenile in prison must be kept alive.

7. In **Ram Deo Chauhan (Raj Nath) vs the State of Assam**, it was held that at whatever point any juvenile delinquent blamed for an offense, irrespective of the punishment imposable by law, is produced before a Magistrate or a court, such Magistrate or court, after it is brought to its notification or is observed by the Magistrate or the court itself that the accused produced before it was younger than 16 years, shall refer the accused to juvenile courts, if the act is pertinent in the States and the courts have been constituted, or else refer the case to the court of the Chief Judicial Magistrate who will deal with their issue per the provisions of law.

## **V. JUVENILE COURTS: WITH SPECIAL REFERENCE TO THE INDIAN JUVENILE JUSTICE ACT**

The Juvenile Justice Act, 2000 defines, under section 2 (I)<sup>14</sup> defines juvenile in conflict with the law as a juvenile who is alleged to have committed an offense and is under 18 years of age (and above the age of 10 years) on the date of the commission of the crime. Under the different Indian laws, there is no consensus over the definition of a child, which creates confusion and difficulty over the legitimate treatment of the children. Under section 2 (d)<sup>15</sup> In the same Act, there is another category of children "Children in Need for Care and Protection" referred to. These children are defined as the ones who are found with no home or settled spot or abode and any ostensible meaning of subsistence. They might be street children/indulging in beggary, child laborers, orphaned/abandoned/destitute kids, abused kids/trafficked kids, kids experiencing physical malformation/psychological maladjustment, or victims of conflict and catastrophe circumstances. The need to incorporate the second classification of youngsters came from the preventive approach of the Juvenile Justice Act. The youngsters, who live under the state of impoverishment, or under difficult circumstances, are very vulnerable to perpetrate wrongdoing. Any trigger point in their lives can force the juvenile to commit delinquency. In this way, keeping up to the way of thinking prevention is better than cure, the Juvenile Justice

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<sup>13</sup> , Hiralal Mallick vs State Of Bihar, 1977 AIR 2236, 1978 SCR (1) 301

<sup>14</sup> The Juvenile Justice (Care and Protection of Children) Act, 2000, Section 2 , Act of Parliament 2000.

<sup>15</sup> The Juvenile Justice (Care and Protection of Children) Act, 2000, Section 2(d), Act of Parliament 2000

Act of India has made provisions for including both class of youngsters, both who are wrongdoers, or the individuals who are very prone to indulge in deviant acts ought to be treated under the Act.

The two classes of children are also treated by various organizations- juvenile offenders under the Juvenile Justice Board, and the vulnerable kids under the Child Welfare Committee. The Juvenile Justice Board comprises of a metropolitan judge or legal magistrate of first-class, and two social workers, at least one of whom ought to be a woman. Under the Act, there are additional provisions for a Special Juvenile Police Unit in each police headquarters. All these personnel must be preferably trained in child psychology or ought to have sensitivity in child-related issues. Now, if in case the juvenile is a co-prosecuted with an adult/adults, a joint trial of the juvenile offender can't be held along with adult criminals. Further, the Juvenile Justice Act in India confines the anxiety of adolescents, stipulates bail as a right to the guilty party, independent of the fact that the offense is bailable or not. Further, the trials of the juvenile offenders are held in a very informal way, where the wrongdoer can't be brought to the Juvenile Justice Board handcuffed. The police authorities or other government workforce are dressed informally. The identity of the guilty party is always concealed, and for no situation, the media can make reference to the name of the wrongdoer in papers or on news channels. After the trial, the guilty parties are held under the observation homes or Special homes. Children needing Care and Protection are sent to Children's homes. All these child-friendly measures of the Indian government are indicative of the fact that the government wouldn't like to endanger the lives of the young criminals, and wants to give them all a chance for development. All the provisions are particularly in accordance with juvenile jurisprudence.

## **VI. JUVENILE DELINQUENCY: INDIA'S PERSPECTIVE**

The legitimate meaning of child influences how the courts in a nation deal with guilty parties. According to the worldwide standards, and under the Juvenile Justice System in India, a minor or a youngster cannot be tried similarly as a grown-up. A youngster is treated as *doli incapax*, without any *mens rea*-he/she isn't fit for understanding the results of his/her activities. Remembering this rationale, youngsters are managed under the juvenile justice system, and not under the adult criminal justice system. They can never be given detainment or capital punishment. Consequently, under the Indian Legal System, Art. 40 (3) (a) of CRC<sup>16</sup> requires State Parties to promote the establishment of a minimum age below which child is assumed not

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<sup>16</sup> United Nations Human Rights office of high commissioner, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>(Last (Visited on May 14<sup>th</sup>, 2021)

to have the ability to veer off the penal law. Age of criminal responsibility is held to be 7 years-youngster below 7 years can't be viewed as a kid in strife with the law – segment 82 of IPC, 1860. Thus, nothing is an offense done by a kid somewhere in the range of 7 and 12 years, who has not accomplished adequate development to judge the nature and results of his/her conduct, and didn't realize that what she/he was doing wasn't right - Section 83 of IPC, 1860<sup>17</sup>.

However, juvenile delinquency has been expanding in the capital city of Delhi and different places in India at a disturbing rate. The contributions of the juveniles in serious offenses like homicide, endeavor to murder, kidnapping and abduction have brought up apprehension in the country. After the December 2012 Gang rape in Delhi (or Nirbhaya case, as it was normally called), numerous discussions and conversations pointed to the gentle approach of Juvenile Justice System to serious offenses. It has been discovered that the adolescents can be as merciless as the grown-ups, which constrained the individuals to reanalyze the definition and way to deal with juvenile delinquents in India. Because of access to the web, the therapists feel that the desires of teenagers and grown-ups are turning out to be at standard. The National Crime Records Bureau (NCRB) information shows that there has been an increase in crime carried out by adolescents, particularly by those within the age range of 16-18 years'.

#### **(A) Mukesh & Anr vs State For Nct Of Delhi & Ors on 5 May, 2017 (Nirbhaya Gang Rape Case): Case Analysis**

The awful incident of ' Nirbhaya Rape Case' raised numerous debates and the prime issue was the contribution of the juvenile culprit, who was just a half year short from turning into a grown-up. This attacks the law of Juvenile Justice (Care and Protection) Act, 2000, and the guilty party was sentenced by the court just for three-year imprisonment. Against this decision of Apex Court, several issues were made, which requested amendment in the current Juvenile Justice Law. The Ministry of Women and Child Development justified the introduction of the bill for several reasons. The prime two reasons of all were, first, the Juvenile Justice Act, 2000 was facing implementation and procedural hindrance. Secondly, the National Crime Records Bureau (NCRB) Reports indicate an expansion in the Juvenile Crime between the age range of 16-18 years (i.e. 1% in 2013 to 1.2% in 2013).

The Supreme Court in *Salil Bali vs Union of India & Anr*<sup>18</sup>, dealt with the contention that it was necessary that provisions of Section 2(k), 2 (l) and 15<sup>19</sup> of the Act, 2000 are to be re-examined in the light of criminal offenses being committed by an individual between the age

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<sup>17</sup> The Indian Penal Code, 1860, Section 83

<sup>18</sup> *Salil Bali vs Union Of India & Anr*, A.I.R 2013 S.C 3743

<sup>19</sup> The Juvenile Justice (Care and Protection Act), 2000, Section 2(k), Act of Parliament 2000

range of 16 to 18, such as gang rape of a young lady inside a moving bus on 16<sup>th</sup> December 2012 wherein along with others, a Juvenile who had accomplished the age of 17 years, was being tried individually under provisions of Act, 2000.

Former president of the Mysur Bar Association, H.V.S.Murty says the New Juvenile Justice bill "violates the very essence of the Juvenile Justice Act". Secondly, it violates various Fundamental Rights. Thirdly, this Act does not take consideration of other applicable elements like social background and mental issues. It has been efficiently established by numerous neuroscientists that in adolescence period, the youngster faces enormous mental, hormonal, emotional, and structural change in the human brain, which subjects the kid to great vulnerability. Fourthly, this Act can as well open the floodgate of cases by exasperated guardians who want to withstand their children from getting into a love relationship.

## **VII. TREATING DELINQUENCY: ITS MEASURES AND TECHNIQUES**

Numerous methodologies and techniques can be utilized in treating delinquency. Some significant techniques are: (1) Psychotherapy Therapy, (2) Activity Therapy, (3) Behavior Therapy, (4) Reality Therapy, and (5) Milieu Therapy<sup>20</sup>.

Punishment isn't examined as a treatment strategy since it is no longer viewed as a practical method of treatment, however, some do feel that pain serves as an obstacle to encourage criminal activity. Limitations and censures can be powerful enhancements to the significant treatment approach used however punishment can't turn into an end in itself. The two fundamental methodologies in managing youths are the individual and the group techniques for treatment. Of these, it is commonly the individual technique that is utilized by psychologists, psychiatrists, sociologists, and social workers, however, psychologists sometimes do use group method as well. Sociologists typically take a 'social engineering' way to deal with misconduct, that is, deal with the conditions of the social structure that breed wrongdoing, while psychologists treat the individual and underscore his relational elements. Sociology is viewed as a hypothetical control inquiring about the circumstances and results of wrongdoing and misconduct.

### **(A) Psychotherapy Therapy**

Enthusiastic and character issues by mental methods, that is, by changing the perspectives and emotions about significant people (say, guardians, and so forth.) in the customer's (delinquent's) past. At the point when the early relationship of an adolescent with his folks was

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<sup>20</sup> Rohit Bura, What are the Methods of Treating Delinquents?,(May 10<sup>th</sup>, 2021) <https://www.preservearticles.com/education/what-are-the-methods-of-treating-delinquents/28861>



not palatable, his enthusiastic improvement was regularly hindered, with the outcome that he was frequently imprudent in his endeavor to fulfill his juvenile desires, not happy with the typical way inside his family. Fulfilling these inclinations and driving forces can appear as hostile to social conduct.

Through psychotherapy, the reprobate is permitted by the specialist to work in a climate of affection and acknowledgment where the individual doesn't need to fear extreme dismissal or physical discipline. This is because of the transference built up in which the customer and the specialist feel good in trading correspondence. Consequently, this treatment includes encouraging the explaining of contentions and giving positive options, in contrast, to conduct adjustment by the customer.

### **(B) Activity Therapy**

Many kids don't have the verbal capacity to impart successfully in a customary individual or gathering circumstance. In the activity therapy method, a gathering of six to eight youngsters are accumulated/welcome to meet at a particular time/spot to participate in play or some creative undertaking. The environment is permissive and adolescents can utilize their time as they wish. Accordingly, a moderately neurotic youngster discovers great release in a permissive domain where he can communicate his threatening vibe and hostility in innovative work, play, or insidiousness. Since his conduct doesn't call for reprisal, discipline or objection, repressed feelings find appropriate discharge.

### **(C) Behavior treatment**

Changes the educated conduct of the delinquent through the improvement of new learning forms. Conduct can be changed through positive or negative fortifications, that is, prizes or punishments. Negative or unsavory fortifications (like restrictions) will lessen/take out negative conduct (that is, delinquent action), while positive or lovely fortifications (like prizes), will keep up increment positive conduct (like an accomplishment at work and in school).

This requires deciding every person's 'rein forcers', that is, those perspectives which the individual (delinquent) will endeavor to accomplish to increase individual fulfillment. Cash, acclaim, consideration, nourishment, benefits, confirmation in school, an opportunity to play with kids, great garments, and so on can be considered as positive strengthens, while dangers, repressions, scorn, physical discipline, denying of cash, and so on., are negative fortifies. For altering conduct, both the fortify can be employed.

### **(D) Reality therapy**

It is based on the view that individuals, incapable to fulfill their essential needs, act irresponsibly. The object of reality therapy is to assist the delinquent person act responsibly, that is, abstain from antisocial activity. For example, if a boy does not attend school classes owing to the harshness of the teacher, he is made to understand that the teacher is not harsh but is interested in helping him shape his career. Here, the present is delinked with the past as the past cannot be changed. This therapy can be given by anyone (police officer, counselor, teacher, social worker, family member, or a friend) because it does not emphasize nebulous psychiatric terms, extensive testing, or time-consuming case conferences. This method differs from the psychotherapeutic method in the sense that the latter is concerned with past behavior, while this is concerned with the present behavior. Whereas the basis of psychotherapy is that a person cannot change his present behavior unless he ties it to the events in the past, the basis of Reality Therapy is that the past is insignificant. In this therapy, since a child is treated as a responsible person and not as an unfortunate youngster, the treatment transmits strength to the youngster.

#### **(E) Milieu or environment therapy**

It endeavors to produce an environment that will encourage important change and satisfactory modification. This is used for persons whose deviant behavior is a reaction to unfavorable life conditions. Besides using the above methods, three more methods are also used in the treatment of juvenile delinquents. These are:

1. Social case-work that is, assisting the maladjusted youngster in coping with his problems. Although similar to psychotherapy in many respects, technically social case-work is different from psychotherapy. Whereas a social case-worker could be a probation officer, prison counselor, mental health worker, or hospital social worker, a psychotherapist is essentially a doctor by profession. The caseworker prepares the case history of the client to explore his background, environment, and relationships with his family, friends, school-fellows, etc. and evaluates his strengths and weaknesses so that a treatment plan can be devised and carried out. This method, however, is often not successful with delinquents because, on the one hand, it is difficult to obtain the delinquent's cooperation as he has no trust in the case-worker and on the other hand, the delinquent's family also resists and feels threatened by the case-worker's 'probing'.

2. Individual counseling that is, re-educating a delinquent to enable him to understand his immediate situation and solve his problem. In this method, no attempt is made to effect a fundamental change in the client's personality.<sup>21</sup>

3. Vocational counseling, that is, increasing the delinquent's knowledge of his career choices, job specifications and qualifications, and training needed for successful employment. The positive attitudes, skills, and habits that the youngster develops and refines in the work situation can be carried over to the community and can positively affect his relationships with others.

## VIII. CONCLUSION

It has been seen through this research that Juvenile Justice (Care and Protection of Children) Act, 2015 in India is far from being perfect legislation to protect and promote the rights of children. And that there has been an increase in crime carried out by adolescents, particularly by those within the age range of 16-18 years'. Juvenile Delinquency has been expanding in the capital city of Delhi and different places in India at a disturbing rate. It has been seen through this research that these juvenile delinquents possess numerous basic problems: malnutrition, drug addiction, mental defect, Introversion and egocentrism. Poverty and unemployment, Broken homes, Lack of parental care and affection, Lack of confidence and frankness between parent and children which, thus, leads to delinquency. Regardless of endeavors made by the Government to check the danger of juvenile wrongdoings, there is a rise in juvenile delinquency. This can be controlled by:

- Psychotherapy, encouraging the explaining of contentions and giving positive options, in contrast, to conduct adjustment by the customer.
- Activity Therapy, gathering youngsters to participate in play, or some creative undertaking.
- Behavior Therapy, changing the educated conduct of the delinquent through the improvement of new learning forms.
- Reality Therapy, to abstain from the delinquent person from antisocial activity.
- Milieu Therapy, creates an environment encouraging important change and satisfactory modification in the juveniles.

To conclude an atmosphere of love and affection and acceptance where the person does not have to fear severe rejection or physical punishment can keep one away from delinquencies. Refrain from anti-social behaviour. Negative or unpleasant reinforcement will eliminate or

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<sup>21</sup> Rohit Bura, What are the Methods of Treating Delinquents?,(May 10<sup>th</sup>, 2021) <https://www.preservearticles.com/education/what-are-the-methods-of-treating-delinquents/28861>

reduce negative behaviour while positive or pleasant reinforcement will maintain or increase positive behaviour. And by producing an environment that will facilitate a meaningful change and a satisfactory adjustment for the Juveniles can reduce Juvenile Delinquency

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