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EMAIL: [PUBLISH.JULS@GMAIL.COM](mailto:PUBLISH.JULS@GMAIL.COM)

## ABOUT US

“Journal of Unique Laws and Students” (JULS) which shall provide law students, young lawyers and legal professionals to deliberate and express their critical thinking on impressionistic realms of Law. The JULS aims to provide cost free, open access academic deliberations among law students and young lawyers. The ISSUE III of Volume I focuses on three themes i.e. (i) Arbitration Law (ii) Competition Law, and (iii) Criminal Law.

The journal strives to contribute to the community with quality papers on a vast number of legal issues and topics written by authors from various groups that have been reassessed and revised by our editorial team to reach the highest possible standard.

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## PREFACE

On looking at today's scenario, there are numerous issues to know about. Our journal's Issue III of Volume I has work on three crucial themes namely *Criminal Law*, *Arbitrational Law* and *Competition Law*. We would like to express our deep appreciation of the co-operation of the contributors, who so willingly devoted their time and energies.

We have tried to cover these wide topics with the relevant research and landmark judgments. We have used standard of words for the explanation, evenly attempted to clear the concepts and presented captivating writing to the readers. The works also contains some suggestions in respective fields.

The views expressed in the articles are purely and solely of the authors and the entire team of the Journal has no association with the same. Although all attempts have been made to ensure the correctness of the information published in the articles, the Editorial team shall not be held responsible for any errors that might have been caused due to oversight or otherwise. It is up to the rest of us to help make the journal a success story in the next several years.

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## EDITOR'S NOTE

Unique Law was established in the month of April 2020 and cheerfully brings **Volume 1 Issue III** of **Journal of Unique Laws and Students (JULS)**. This journal has become a successful climb in reaching to our goal of gaining visibility in the academic front and becoming a great platform in education community.

The journal aims to present merit papers on the numerous legal issues and these topics are authored by various groups of individuals that have been reappraise and emended by our team of editors to attend the highest possible excellence. These research papers, case analysis and shortnotes are the result and we feel privileged to have been able to act as editors.

We thank to all our authors for their obedient submission to the third issue of the Journal by Unique Law and also for their productive cooperation with the editorial team to garnish their work with perfection. We would also like to express our gratitude to our diligent editorial board, whose restless support and commitment made this Journal's Issue III a success.

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## A STUDY ON JUVENILE DELIQUENCY

**Author:** Vidhika Panjwani\*

### **ABSTRACT**

*Children are the hope for the future of our nation. Individuals are responsible for making their homes and communities safe and welcoming. It has been proven with data that the rate of adolescent delinquency has increased dramatically in emerging nations such as India during the previous decade. The fundamental question that arises as a result of this is how did the concept of juvenile delinquency come about? Despite the fact that delinquency may be found in many countries, it is more prevalent in highly industrialized countries with significant urban populations. The phrase was coined in order to protect juvenile lawbreakers from the embarrassment of being labelled as criminals in court records. The primary goal of juvenile legislation is to deal with delinquents. However, since the number of crimes committed by juveniles continues to rise in the current environment, the phrase "juvenile crime" has become a source of embarrassment. Delinquents are more likely to come from households that are tense and have a lot of difficulties in their relationships. As the rate of juvenile criminality continues to rise, it is imperative that the appropriate actions be taken and that an amendment should be included into the current legislation so that it may be implemented and enforced in a rigorous manner.*

**Keywords:** Juvenile, Delinquency, Prevention, Judicial Justice System.

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\*2<sup>nd</sup> year BB.A LL.B Symbiosis Law School Pune, Maharashtra; Available at: [vidhikapanjwani@gmail.com](mailto:vidhikapanjwani@gmail.com)

## **INTRODUCTION**

Juvenile delinquency is defined as criminal conduct committed by a person under the age of eighteen. These illegal acts have increased in recent years as a result of a variety of factors and circumstances. In the majority of cases, minors charged with severe criminal offences such as robbery or murder are transferred to criminal courts and tried as adults. Occasionally, prosecutors make this determination, or sometimes allow transfers which requires a court hearing to examine the juvenile's age and record, as well as the type of crime, and the probability that the youth can be aided by juvenile court. As a result of a 'get tough' attitude when it comes to juvenile crime, numerous countries have a strong stance on youth criminality and have updated its juvenile codes to make them more accessible to ensure that it is easier to transfer a juvenile criminal to adult court.

To put it simply, juvenile delinquency is the minors' involvement in criminal acts. A child or a delinquent is a person who is generally younger than 18 years old and undertakes an act that otherwise would've been treated as a crime by an adult and the person would've been charged and tried. Thus, it is pretty obvious that juvenile delinquency is included in all of those shifts and changes in a person's behavior during his or her life when navigating through the storm of adolescence, however not every teenager has this trait. The severity of delinquency varies from person to person and it will stay undiscovered until and unless a particular conduct becomes a matter of social concern. Because adolescence is a period of transformation in life, we can witness a fast dramatic improvement in one's physical, mental, and emotional well-being, spiritual, sexual, and societal outlook. This is a time of anxiety, concerns, disagreements, and difficulties. As a result, during this time span, they engage in particular activities in order to please one or more of their needs, which in turn, leads to their development into a delinquent.

Children that are delinquent fall into that category of exceptional youngsters who demonstrate a great deal of deviation in terms of their social adjustment. As a result, they are also classified as socially aberrant, socially deviant or socially handicapped. They exhibit criminal behaviour and are punished by law.

Infraction of societal norms and values endanger the society's peace and are thus deemed criminal offences. The nature and characteristics of the offence may be minor or serious. They are, however, always antisocial, and hence are subjected to judicially sanctioned criminal acts. In this regard, they are extremely similar to criminals and antisocial elements. However, in legal parlance, they are delinquents, not criminals. On the whole, juvenile delinquency is a

legal phrase that refers to acts with various degrees of societal repercussions ranging from little mischief to grave assault that is punishable under the law.

## **DEFINITION OF JUVENILE**

Prior to the passage of The Children Act, 1960, there was no consensus in India on the minimum age of a juvenile criminal, and each state had its own definition of what constitutes a "Child." For instance, in Haryana and Bombay, a juvenile was defined as a male under the age of 16 or a female under the age of 18<sup>1</sup>. In Andhra Pradesh, the term "Kid" refers to "a person under the age of 14 years and, when used in conjunction with being sent to a recognized school, includes that child for the period of detention, regardless of whether the child attains the age of 14 before the period expires."<sup>2</sup> The Children Act of the UP defined "Child" as any individual under the age of 16.<sup>3</sup> In West Bengal, a "kid" was defined as anybody under the age of fourteen.<sup>4</sup>

The Juvenile Justice Act of 1986, which defined "Child" as a person who has not reached the age of 16 in the case of a male and 18 in the case of a girl. To comply with its international obligations, India repealed this Act and replaced it with The Juvenile Justice (Care and Protection of Children) Act, 2000, which abolished the distinction between boy and girl ages and established an age limit of not more than 18 years for juveniles whose actions are alleged to be in violation of the law of the land.

However, the Juvenile Justice (Care and Protection of Children) Act, 2015 made significant amendments to the earlier Act, and under this Act, when a child's actions are alleged to be in violation of the law of the land, he is treated as an adult if his actions fall within the category of heinous offences, which are those offences that are punishable by death.

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<sup>1</sup> The Haryana Children Act, Section 2 (d); The Bombay Children Act, 1948, Section 4

<sup>2</sup> The Andhra Pradesh Children Act, 1951, Section 2(d) 5

<sup>3</sup> U.P Children Act, 1951, Section 2(4)

<sup>4</sup> The Bengal Children Act, 1922, Section 3(1)

## **DEFINITION AND NATURE OF DELINQUENCY**

**Delinquency is defined as an excessive act or omission by a youngster. In addition to deviant conduct because it is socially unexpected, it is also believed to be behaviour in which the youngster habitually behaves or pretends to be a grown-up or an adult. The behaviours of the child may appear to be dumb and silly, but in reality, they cause consternation and concern among the people of the community in which he lives.**

Frederick B. Sussmann in his book 'Law of juvenile delinquency'<sup>5</sup> listed the following acts as delinquent<sup>6</sup>:

- infringement of any law or ordinance,
- habitual absence, alliance with thieves,
- brutal or immoral persons,
- beastly beyond the control and authority of parents or guardians.

## **REVIEW OF LITERATURE**

**Phogat<sup>7</sup> stated that** in majority of cases of juvenile delinquency, substance abuse is found. Two increasing trends with respect to substance abuse in minors has been identified. First, the age at which juveniles start consuming drugs is younger than before and second, they are using more drugs today than was the case 10 years before.

R.Roshini<sup>8</sup> concluded in her paper that recently, both, the government and the society have been paying attention to children and their problems but it seems like the problems are enormous and never ending. This results in lack of everything that's been done so far till today. And if these problems are not dealt with and curbed soon then the growth of the future generation will be hampered giving a dark future to our country.

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<sup>5</sup> Book Reviews: Frederick B. Sussman, Law of Juvenile Delinquency (The Laws of the Forty- Eight States), Legal Almanac Series No. 22, Oceana Publications, New York; 1950, 96 pages, journals.sagepub.com visited on 12-09-21

<sup>6</sup> Challenges to Juvenile Justice Laws in India [www.blog.ipleaders.in](http://www.blog.ipleaders.in)

<sup>7</sup> Phogat, K. (2017). Juvenile Delinquency in India Causes and Prevention. *Journal of Advances and Scholarly Researches in Allied Education Vol. 13, Issue No. 1.*

<sup>8</sup> Roshini, R. (2018). Juvenile Delinquency in India. *International Journal of Pure and Applied Mathematics.* Volume 120 No. 5, (1729-1738)

Dr. Saleem<sup>9</sup>, while tracing the loopholes in the Juvenile Justice (Care and Protection) Act 2015, criticised the Act by stating that treating a Juvenile as an adult is violative of their right to equal opportunity and deprives them of the right to have a fresh start.

Dr. Acharya<sup>10</sup> mentioned It is widely believed that the public's perception of insecurity has been greatly impacted by the media, which is now free to report on an increasing number of criminal "dramas" on a daily basis. Indeed, there is evidence that the media exaggerates the level of crime in the country, and particularly adolescent misbehaviour, in order to generate more attention. As a result, to the degree that the media has an impact on public opinions, those beliefs are likely to be based on stereotypes and incorrect data derived from unrepresentative reporting. In the field of public views regarding juvenile delinquency, there has been relatively little study done. Previous research has been confined to assessing adolescents' dread of criminal activity and public opinion on the death sentence, among other things.

**Pillai and Upadhyay<sup>11</sup> asserted that children's psychological development is fundamentally different from that of adults, according to neuroscience research, and as a result, they are held to be less responsible as well. The fact that children have a higher degree of mental and emotional development than adults also indicates that they have a better capacity for rehabilitation and are thus more likely to respond favourably to rehabilitation treatments. Recognizing this critical distinction, juvenile justice programmes all around the globe focus the greatest emphasis possible on rehabilitation and reintegration.**

Juby and Farrington<sup>12</sup> used three hypotheses that explain the link between warped families and delinquency and made their case. According to his initial idea, the trauma theory, the death of a parent has a negative impact on a kid's development because of the relationship that the youngster has to their parents. His second theory, Life course Theory (which points to separation as a long drawn-out process rather than a discrete event), and on the effects of multiple stressors typically associated with separation, and his third theory, selection Theory (which contended that distorted families are the primary reason behind delinquency because of the pre-existing difference in the income of the family and the method of child rearing.

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<sup>9</sup> Dr. Saleem, M. (2020). Juvenile Delinquency in India: Problems and Remedies. *Law Audience Journal*. Volume 2 & Issue 4, (3-18)

<sup>10</sup> Dr. Acharya, S. (2017). The Study of Juvenile Delinquency with Reference to Psychological Perspectives in The Juvenile Homes of Delhi. *International Journal of Advanced Research in Management and Social Sciences*

<sup>11</sup> Pillai, G., & Upadhyay, S. (2017). Juvenile maturity and heinous crimes: re-look At Juvenile Justice Policy In India. *NUJS Law Review*, 10(1), 49-82

<sup>12</sup> Juby., Farrington., (2001). Disentangling the Link between Disrupted Families and Delinquency. *British Journal of Criminology*

**Belwal and Belwal**<sup>13</sup>, while discussing the causes of juvenile crimes mentioned that if we look at India, poverty is a significant factor in the lives of children. This is one of the most significant reasons why youngsters are more likely to engage in criminal behaviour as they grow older. A child's involvement in criminal activity is compelled by poverty. In both arrests and convictions, the great majority of people involved are from low-income families. The police, as well as other law enforcement agencies, are harsh on them because they lack the necessary resources. People who are in better financial circumstances are perceived to be more favourable in administrative processes involving law enforcement. In a variety of ways, poverty encourages antisocial behaviour. Unsatisfactory interpersonal relationships have been shown to commonly arise as a result of destitution and poverty, according to research. As a result of malnutrition and poor physical condition, impoverished individuals have poorer mental resilience than wealthy ones. They live in a slum, and the neighbourhood and surrounding environment are insufficient since they have no other option when it comes to choosing a residential neighbourhood.

## **RESEARCH METHODOLOGY**

For the purposes of this study, only secondary sources have been consulted. Interviews with individuals were not included in the main sources because it was not feasible to interview people during these unprecedented times of pandemic. Books on juvenile delinquency and research articles on the juvenile justice system are examples of secondary sources. In addition, law websites and blogs have been recommended for the study.

## **OBJECTIVES**

Following are the objectives of this research paper:

- To understand the types and causes of Juvenile Delinquency.
- To trace down the Judicial Response in India to Juvenile Delinquency.
- To analyse and compare the Juvenile Justice System of countries other than India.
- To understand the preventive measures necessary.

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<sup>13</sup>Belwal, A., Belwal, A. (2016). Juvenile delinquency in India. *Bharati law Review* (307-317)

## **FINDINGS AND DISCUSSIONS**

### **TYPES OF JUVENILE DELINQUENCY:**

Delinquency manifests itself in a number of ways, whether via different types of behaviour or different kinds of conduct. Each pattern is associated with a certain sort of social environment. Howard Becker defined four forms of juvenile delinquency in 1966: individual, group-supported, organised, and situational delinquency. Individual delinquency is the most common type of juvenile delinquency.

Individual delinquency is defined as any and all of the delinquent activities performed by the adolescent on his or her own. The source of the problem is found inside the criminal himself. According to the psychiatrists, these are brought on by psychological issues that have arisen. These psychological issues are largely caused by dysfunctional and unhealthy patterns of family contact, which are discussed below. It was discovered that the most prevalent reason for delinquent siblings committing such crimes was because they were unhappy and dissatisfied with their current living conditions by the psychiatrists who attempted to compare them to their non-delinquent siblings. In the first place, they engage in delinquent behaviour in order to attract attention from their family or classmates. Others engage in delinquent behaviour in order to alleviate their guilt emotions. They also discovered that delinquent children varied from non-delinquent children in terms of their connection with their dads, rather than their relationship with their mothers. In addition, their discipline was stricter and more severe than before.

Group-supported delinquencies, on the other hand, are those that are committed in the company of other people. In addition to the delinquent's personality and family, there are cultural factors at play in the delinquent's home and neighbourhood that contribute to his or her behaviour. The primary motivation for such delinquent behaviour is the desire to be in the company of people who are already delinquents. The psychological check that underpins this is focused on what was learned and from whom it was learned, rather than the difficulties that may have led the individual to engage in such delinquent behaviour.

The commission of organised delinquencies is the responsibility of formalised organisations. This entails a certain set of values and norms that influence the behaviour of young people when they are involved in delinquent acts of violence.

All of the categories of delinquencies described above have one thing in common: the delinquency is regarded as having deep roots in the community. For example, the root cause of

individual delinquency is found deep inside the individual. In organised and group-supported delinquencies, on the other hand, the underlying reason is found in the social structure. Situational delinquency is characterised by the absence of deep-seated fundamental causes. As a result, regulating such delinquent behaviours is rather straightforward when compared to other forms of delinquencies.

Criminal delinquency can be classified into three types of crimes: violent crimes that result in bodily injury (such as assault, murder, and rape), property crimes that occur when a juvenile employs or threatens to use force to obtain the property of others, and drug-related crimes that involve the possession or sale of illegal narcotics.

Trojannovicz classified juvenile delinquents into five groups in his book, "Juvenile Delinquency: Concept and Control"<sup>14</sup>. They are gang organised and collective delinquency, unsocialized aggressive youths, accidental offender, occasional delinquency, and professional delinquency, among other characteristics. Minor violations, which include minor traffic violations and property violations; major traffic violations, which include automobile theft; human addiction, which includes alcohol and drug addiction; and bodily harm, which includes homicide offences, as defined by Eaton and Polk in their book "Measuring Delinquency"<sup>15</sup>.

## **CAUSES OF JUVENILE DELINQUENCY**

Understanding the causes of juvenile delinquency is essential to avoiding a young child from being involved in inappropriate, harmful, and criminal behaviour. Individual, family, mental health, and drug addiction are the four major risk variables that may be used to identify young individuals who are at risk for delinquent behaviour. Frequently, a juvenile is exposed to risk factors that fall into more than one of the categories listed above.

### **a) Individual Factors:**

A number of risk variables have been discovered in the context of juvenile delinquency. Those minors who are of lesser intelligence and who do not acquire a decent education are more likely to become involved in delinquent behaviour. Among the other risk factors include impulsive behaviour, uncontrolled aggressiveness, and an inability to put off gratification for an extended period of time. In many cases, numerous individual risk factors may be recognised as

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<sup>14</sup> Trojannovicz, RC. *Juvenile Delinquency: Concept and Control*, Prentice Hall, New Jersey, 1973.

<sup>15</sup> Eaton JW, Polk K. *Measuring Delinquency*, Pittsburg Press, Pittsburg University, 1961.

contributing to a juvenile's engagement in harmful, destructive, and criminal behaviours as well as involvement in these activities.

**b) Factors related to the family:**

The development of delinquent behaviour in young individuals is connected with a continuous pattern of family risk factors, according to research. Neglect and abuse are among the family risk factors, as is a lack of adequate parental monitoring as well as persistent parental dispute (emotional, psychological or physical). It is likely that parents who exhibit a lack of regard for the law and social standards will produce children who think in a similar fashion. The last point to mention is that children who have the lowest relationship to their parents and families are also the same youngsters that participate in improper activities, including criminal behaviour.

**c) Factors Influencing Mental Health:**

A number of variables related to mental health are also thought to play a role in adolescent delinquency. The fact that a diagnosis of some types of mental health issues, mainly personality disorders, cannot be established in the context of a kid must be kept in mind, however. However, there are antecedents to these circumstances that might manifest themselves in childhood and that are more likely to manifest themselves as delinquent behaviour later in life. Conduct disorder is one of the most frequent. As described by the American Psychological Association, conduct disorder is characterized by "a lack of empathy and disrespect for social standards"<sup>16</sup>.

**d) Substance Abuse factors:**

When it comes to juvenile delinquency, drug addiction is seen in the majority of instances. Two patterns have been discovered in terms of substance abuse and children. One of the most significant differences between now and ten years ago is that youngsters are taking more potent narcotics. Second, the average age at which certain adolescents begin taking drugs is younger than the national average. It has been discovered that children in primary schools are abusing strong illicit substances. The use of these illicit substances, as well as the use of legal substances in an unlawful manner, drives young people to conduct crimes in order to earn money to purchase illegal narcotics. Additionally, when under the influence of drugs or alcohol, minors are considerably more prone to participate in disruptive, dangerous, and criminal actions.

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<sup>16</sup>Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, American Psychiatric Association, (2004)

## **JUVENILE DELINQUENCY PROTECTION: JUDICIAL TRENDS**

The role of the court is critical in protecting the rights of all people, including children. Children are the nation's most valuable asset, and it is the court's primary responsibility to ensure that all citizens have access to the rights and facilities that are necessary for the welfare and development of the society.

The Supreme Court has done a fantastic job in the area of child welfare and child welfare protection laws. Some of the most notable examples of the judiciary's position on the welfare of children. During a hearing in the case of *Bachpan Bachao Andolan v. Union of India*<sup>17</sup>, the Supreme Court, via Justices J.M.B Lokur and Deepak Gupta, marked that particular consideration should be given in crisis situations. During a recent hearing, the Supreme Court ordered the National Disaster Management Authority to take prompt action to protect children, particularly in the event of a disaster. According to the Supreme Court's decision in the case of *Re-Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India*<sup>18</sup>, laws on child care and protection should benefit all types of children, regardless of their age. "Child in need of care and protection," as defined under the Juvenile Justice Act of 2015, should be read as broadly as possible, according to the court's ruling. Guidelines are also established by the court to ensure that children's rights are protected.

The Supreme Court of India, in the case of *Gaurav Jain v. Union of India*<sup>19</sup>, ruled that children have the right to equal opportunity, care and dignity, rehabilitation and protection by the community with both hands, among other things. *Lakshmikant Pandey v. State*<sup>20</sup>, the Supreme Court of India held that a kid has the right to be loved. He also has the right to be secure in his moral and material well-being.

In the case of *Kakoo v. State of Andhra Pradesh*<sup>21</sup>, a 13-year-old male was found guilty of raping a 2-year-old girl and was sentenced to prison. Taking the phrase out of context Justice Sarkaria remarked that long-term imprisonment is certain to transform a juvenile delinquent into a criminal, and he emphasized that, in the case of minor offenders, the current penological trends need a more humane response to the situation.

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<sup>17</sup> Writ Petition (civil number) 75/2012, date of order September, 2017.

<sup>18</sup> (2017) 2 SCC 629.

<sup>19</sup> AIR 1993 SC 2178.

<sup>20</sup> (1984) 2 SCC 244.

<sup>21</sup> AIR 1977 SC 1991.

According to the Supreme Court in *Raisul v. State of UP*<sup>22</sup>, the death sentence should not be inflicted on anyone who is under the age of eighteen (18 years). In the case of *Rahul Mishra v. State of Madhya Pradesh*<sup>23</sup>, it was determined that although the juvenile delinquent seems to be guilty on the surface, he is entitled to special protection under the act, namely section 12 of the act, because of his age. This protection must be provided. In the case of *Subramanian Swamy v. Raju Through Member, Juvenile Justice Board*<sup>24</sup>, Delhi Gang Rape Case, which was heard in December 2012, the court ruled that the defendant was not guilty of the crime.

One of the defendants in this case was a juvenile, and he has not been handled as an adult despite having committed such a horrific act. He was brought before the Juvenile Justice Board, which sentenced him to three years in a special home before releasing him to roam freely throughout society. He was found guilty and sentenced to three years in a special facility. The irony of our legal system is as follows:

In *Mohammad Feroz Bholav. State*<sup>25</sup>, the court remarked that bailing out a juvenile is not an act of mercy, but rather a command to that individual, who is seeming to be a juvenile. The court went on to say that Section 12 of the act is required unless there are compelling reasons to do otherwise. The case studies presented here illustrate a pattern of court activities in the field of juvenile justice in India.

It demonstrates that the Indian judiciary has begun to position itself as an ally of the individual citizen. The Indian judiciary is establishing itself as a partner and facilitator in the country's efforts to improve juvenile justice systems. The Judiciary is making efforts to safeguard the well-being of children in the country within the framework of the Constitution and the legislation pertaining to juvenile justice. This is being done through proactive methods. The goal is not to torment delinquents with the dread of punishment, but rather to assist and lead them through the process of getting out of juvenile delinquency as fast as possible and gradually transforming into responsible people in the future.

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<sup>22</sup> AIR 1977 SC 1822.

<sup>23</sup> 2001 Cr. LJ 214 (MP).

<sup>24</sup> (2014) 8 SCC 390.

<sup>25</sup> (2005) 3 JCC 313.

## **JUVENILE DELIQUENCY ACROSS THE GLOBE: A COMPARATIVE STUDY**

For a long time in New Zealand, child and youth legislation did not discriminate between offenders and needy children. <sup>26</sup>Before the Children, Juvenile Persons and Families Act (CYPFA) was established in 1989, New Zealand had no specific laws for young offenders. This Act now regulates procedures against young offenders before the Youth Court and has different legal implications for dealing with young people who have broken the law. As a result, the new law codified 'a comprehensive set of basic principles that regulate both state engagement in children's and young people's lives and the management of the youth justice system. It also provides accessible services and processes that try to address cultural needs and assist families in caring for their young people and assist families when the relationship between family members is disrupted.

The Crimes Act 1961 regulates the age of criminal responsibility. According to section 21(1) of the Crimes Act, no one under the age of ten can be convicted of a crime. This does not alter the culpability of any other accused accomplice.

The date of the alleged offence is used to establish the juvenile offender's age. A child offender is someone who was 10, 11, 12 or 13 years old when the offence was committed. To be tried for any offence other than murder or manslaughter, a child aged 10 to 14 must have knowledge of the moral or legal wrongdoing of the act or omission. The prosecution must establish that the accused knew the conduct or omission was improper or illegal. As a result, prosecutions of minors are unusual. A kid accused with murder or manslaughter must first appear in a Youth Court. In such circumstances, the CYPFA applies as if the kid were a young person, with some exceptions.

Diversionary proceedings are an essential part of New Zealand's youth justice system. The CYPFA's new approach prioritises diversion from courts and detention while holding young people accountable and providing for their rehabilitation and reintegration, family assistance, and victim needs. On the other hand, serious or recidivist young offenders must appear before a Youth Court Judge. Police warnings (either frontline or Youth Aid personnel) are believed to

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<sup>26</sup>Gupta, N. Comparative Study of juvenile Delinquency. Retrieved from:  
[https://www.academia.edu/27293306/Research\\_Paper\\_on\\_Comparitive\\_Study\\_Of\\_Juvenile\\_Delinquency](https://www.academia.edu/27293306/Research_Paper_on_Comparitive_Study_Of_Juvenile_Delinquency)

be used to deal with around 44% of juvenile offenders in New Zealand, while youth court charges followed by FGCs account for approximately 16%.

Due to the historical evolution of German juvenile laws, there is now a clear distinction between laws dealing with young offenders and those dealing with children and young people in need of care and protection. Thus, the German Juvenile Justice Act deals only with juvenile offenders (JJA). Juvenile Justice Act (JJA) of August 4, 1953, as modified on December 11, 1974, and substantially reformed in 1990. Like New Zealand's juvenile offender legislation, the JJA does not include a separate criminal law statute for juvenile offenders. Instead, the other act defines criminal offences (whether committed by juveniles or adults), while the JJA provides substantive law and unique procedural requirements for the Jugendgericht and its jurisdiction.

The German juvenile justice system is a modified adult system. No dedicated decision-making forum (like JJBs). So, in Germany, prosecutors and courts decide how to respond to criminal activity. The countrywide extension of diversionary provisions is predicated on the premise that diversionary solutions to juvenile offending prevent or lessen stigmatization since the young offender is handled 'educationally' rather than criminally. There are certain informal steps that can be taken before a judicial case against the young person is filed. The extensive use of diversionary measures is supported by the fact that small offences committed by young people during their adolescence are 'normal' and 'ubiquitous' and are typically ceased when they mature. A formal conviction causes more harm than good and is often disproportionate, considering that the goal of punishment in adolescent justice is individual prevention, including rehabilitation.

Since England governed America for many years, the rules of America are heavily influenced by English Common law. Americans embrace phrase "adult crime adult time". In 38 states, the minimum age for minors is seventeen, whereas in three states it is fifteen. Except in Vermont, Indiana, and South Dakota, where a kid of 10 years can be prosecuted as an adult, virtually all US states agree that juveniles beyond the age of fourteen can be tried as adults. In terms of punishment, minors face a variety of sanctions. The maximum sentence for severe offences is life imprisonment for children under the age of twelve. Juveniles who have the potential to commit major offences are detained and put through a rehabilitation programme. This is all to manage juveniles. In addition to harsh punishments for drug and gang related offences, harsh treatment such as boot camps and mixed sentences have been established. In terms of

jurisdiction, if a minor (typically 13 or 15) commits a serious offence, their case is immediately transferred to adult court. In such instances, the juvenile courts' jurisdiction is waived.

## **PREVENTION**

Preventing juvenile delinquency at an early stage is largely considered to be the most effective strategy available today.<sup>27</sup> Delinquency can only be controlled via the efficient execution of the Juvenile Justice Act of 2015, which includes widespread public awareness, adequate orientation and training for professionals, as well as law enforcement organisations. The government should place greater focus on effective and appealing long-term programmes for juveniles in order to encourage them to become productive members of society. As a result, individuals restore their self-confidence, which has been eroded as a result of society's harsh attitude toward them. The attitude taken by authorities such as the police that are participating in the system may be more reformative in nature rather than strictly punitive. If the goal is to reform delinquents rather than punish them, this may be the best approach.

Individuals, as well as groups and organisations, have a role in the preventive process, which aims to keep teenagers from violating the law in the first place. Due to the fact that juvenile delinquency is a social disease, the child or adolescent must be treated as such in order for him/her to be able to adapt with the rest of the society. It is necessary to correct the individual's misalignment with society. The primary cause of adolescent delinquency is a lack of fundamental necessities, which they attempt to compensate for by engaging in anti-social behaviour and other illegal activities. As a result, efforts should be taken in order to satisfy the fundamental requirements or demands of every kid in a socially acceptable way, regardless of whether the child is a delinquent or not. Children that are delinquent should be given special attention.

Each juvenile delinquent must be considered on his or her own merits. The satisfaction of his or her desires for power, status, and recognition should be the primary focus of attention. Each case should be read on its own merits, taking into consideration the unique issues and reasons that led to the commission of such criminal conduct. Once this is accomplished, rehabilitation, readjustment, and reconditioning of the individual in society will be feasible.

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<sup>27</sup>Belwal, A., Belwal, A. (2016). Juvenile delinquency in India. *Bharati law Review* (307-317)

The other recommendations for preventing juvenile delinquency include: keeping an eye out for signs of maladjustment, providing the child with a variety of experiences that can serve a purpose, attempting to build a stable system of moral and social values, rejecting delinquent behaviour without rejecting the delinquent, encouraging the child to talk about and admit the existence of anti-social tendencies, and changing the environment around the child.

### **DELINQUENCY PREVENTION PROGRAMS:**

There are two types of juvenile delinquency prevention programmes.<sup>28</sup>

1. Individual Programme: Individual programme includes delinquency prevention via counselling, psychotherapy, and education.
2. Environmental Programme: An environmental programme employs strategies to change the socio-economic setting that encourages criminality.

The following techniques employed in crime prevention programmes represent these two types of preventative approaches.

#### **I. Individual Programme:**

##### **a) Clinical Programme**

This clinic's goal is to assist juvenile offenders address their personality issues through Psychiatrists, Clinical Psychologists, and Psychiatric Social Workers. Taft and England listed clinics' functions as follows:

- ✓ To help find pre-delinquents.
- ✓ Examine instances chosen for research and therapy.
- ✓ Treat cases or send them to other agencies.
- ✓ To raise awareness of psychiatric approaches to treating children's behavioural issues.
- ✓ To expose unmet kid community needs.
- ✓ Assisting students wishing to specialise on behavioural difficulties

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<sup>28</sup> Phogat, K. (2017). Juvenile Delinquency in India Causes and Prevention. *Journal of Advances and Scholarly Researches in Allied Education Vol. 13, Issue No. 1.*

**b) Education Programme**

In nations where virtually every child attends school, schools can effectively begin preventative programmes. Teachers should not discriminate amongst pupils; they should be treated equally and given moral instruction that will benefit them in their lives. Moral education is an important aspect in students' lives. They should be able to distinguish between good and bad ideas that benefit them.

**c) Mental Hygiene**

This approach can also be used to address juvenile delinquency. The importance of mental treatment in treating a mental disorder cannot be overstated. The great mission of life must be decided and energy directed towards its accomplishment. A child's elevated sentiments and values help avoid juvenile delinquency. In October 1944, Dr. K.R. Masani, then Director of the Indian Institute 72 of Psychiatry and Mental Hygiene, stated that mental hygiene was used widely in education, law, medicine, public health, and industry to avoid delinquency and crime.

**d) Educating Parents**

Every community should provide chances for parental education to promote family relationships, child education, and child care. Some educational programmes educate parents about child health.

**e) Leisure activities Programme**

The recreational programmes help delinquency. Recreation activities allow youngsters to socialise with other adults and children in the neighbourhood. Positive friendships may help youngsters later in life. A variety of activities are available to meet the interests and abilities of various youngsters. Sports and other healthful activities are thought to be highly effective in reducing delinquency among young people. Sports, playgrounds, community centres, concerts, theatre, and puppet shows are highly important for avoiding delinquency and fostering social group work and youth organisations. Rural recreation organisations should provide open-air gathering spaces and sports and cultural playgrounds. Youth organisations and groups/agencies should organise these programmes to keep Juveniles away from delinquency.

**f) Inferiority complex removal**

Inferiority complex, dread, and apprehension can occasionally cause a kid to commit crime to prove himself. Children deserve support to grow up confident and kind. Discouragement drags them down. In addition, their shortcomings should not be ridiculed. To overcome inferiority complex, praise, sympathy, and love should be bestowed.

**II. Environmental Programme:****a) Community Programmes**

The goal of a community programme is to reach those in need rather than employees and agencies. This program's relevance is that it emphasizes community involvement above professional leadership. Marshal B. Clinard summarised these programmes' essential assumptions as follows:

- ✓ Locals will help alter the area.
- ✓ Neither do they embrace adversity as normal or enviable.
- ✓ For the inhabitant, self-imposed modifications in the local environment will have a greater impact.

**b) Publicity**

This approach can help avoid juvenile delinquency. Newspapers, periodicals, radio, television, and movies should accurately portray juvenile misbehaviour, accurately report on the juveniles' misdeeds, and safeguard the juvenile from incorrect and misleading reporting. The society should be informed about their delinquent behaviour so they may be appropriately assessed.

**c) Parental love**

Child's mother and father must unconditionally love, care for and protect him. Deprived of such affection and attention, a kid may become frustrated and dissatisfied, leading to criminality. So parental love, care, and protection is required to keep a kid from committing or performing a crime. So parental love, care, and protection is required to keep a kid from committing or performing a crime.

## **SUGGESTIONS AND CONCLUSION**

As a result of the foregoing study, it is obvious that the appropriate implementation and modifications of the Juvenile Justice Act will not be sufficient to minimize juvenile delinquent behaviour. It is critical to raise awareness among civil society members about the illness that exists in our society today. Juveniles engaging in illegal activity are not only the perpetrators of crime, but they are also the victims of a sick society. The onset of juvenile delinquency can be prevented at an early age if proper precautions are taken at home and in the school setting. Parents and instructors have a critical influence in the development and shaping of a child's intellect and personality. Instead of putting a tag or labelling the juvenile delinquents, essential efforts should be made to provide them with a chance to make up for their wrongdoing. It is important that they are made aware of any mistakes they have made, whether social or psychological, as soon as they are discovered. This social evil, unlike any other crime, is associated with the maladjustment and flaws of our society, as opposed to any other type of crime. There is no evidence to suggest that tougher legislation would result in fewer crimes. The concept that juvenile delinquents require more than simply the harsh hand of the law is rapidly gaining greater recognition, with more people realising that they require the sympathy and understanding of our community.