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Authored By: Dr. Mohd Saleem (LL.M. Ph. D (Law)), Asst. Prof,
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ABSTRACT:

“Children are considered the future citizens of the country under the National Children Policy, 1974. They are the most important asset of tomorrow and their safety and development are a great concern in today’s situation. To look into the matters which are related to their development and growth are the important subject, which hampers their nurturing. A child is born innocent and if nurtured with tender care and attention, will blossom with faculties; physical, mental, moral, and spiritual; into a person of excellent stature. Growth of a child depends on the upbringing which he gets in the society. The surrounding and atmosphere from where he belongs are the most valuable in their life. The Media and technology are also affecting child mind, these things are boon and ban as a sin.

The mostly Problems arises when these juveniles develop delinquent tendencies and get involve in law-and-order problems. The general observation is that criminality or delinquency peaks in adolescence and diminishes with age. The pattern of crime is common across historical, geographical and cultural context Indulgence in conventional crimes is more widespread in teenage and adults. Most of these offenders dis-engage from crime after a brief career in crime.

*The Great Noble laureate **Gabriel Mistral** has observed and commented in this regard as, “We are guilty of many errors and many faults, but our worst crime is abandoning the children, neglecting the foundation of life Many of things we need can wait, the child cannot, right now is the time his bones are being formed, his blood is being made and his senses are being developed. To him, we cannot answer ‘tomorrow’.”*

I. INTRODUCTION:

His name is ‘today’. The Noble Laureate Nelson Mandela stated that *“There can be no keener revelation of a society’s soul than the way in which it treats its children”*. Juvenile delinquency is also known as *“juvenile offending”*. The illegal behaviour of a child is juvenile

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delinquency. Prevention of juvenile crime or delinquency like the prevention of any other phenomenon of an unpleasant and destructive nature is obviously much better than their subsequent control after they occur. The most interesting aspect of the subject of juvenile delinquency is that in every year it has been regarded as the problem peculiar to the contemporary society while the fact is that like adult criminal behaviour it has existed in some form or other in the future. The term '*juvenile*' has been defined under *sec 2(h) of Juvenile Justice Act, 1986* and the term '*delinquency*' has been defined under *sec 2(e) of the Juvenile Justice Act, 1986*. Under section 2(k) define the juvenile is a person who below 16 years.¹

Prior to the JJ Act of 2015, the age bar for juveniles was 18 years under *Juvenile Justice (Care and Protection of Children) Act, 2000, 2006, 2012*). In fact, the age of the juvenile under the Indian legislations has taken variation in temporal and spatial perspectives. It varies from 14 to 18 years under different laws and different Indian state. Indian Government is becoming more and more conscious of constitutional and statutory rights of children. It has been realized that male and female children should be treated alike.

The safeguards given to a child in the Constitution of India are as follows:²

- i. Article 14 the Right to Equality;*
- ii. Article 15 (3) of the Constitution guarantees special rights can be made by the Government for the upliftment of a child;*
- iii. Article 18 Right against discrimination;*
- iv. Article 20 right to life and Personal Liberty;*
- v. Article 21A Right to Elementary education³*
- vi. Article 23 and 24 Right against Exploitation; and*
- vii. Article 51(k) is added enshrined to provide opportunities for education to his child, or as the case may be, ward between the age of six and fourteen years.*

¹ The Juvenile Justice (Care and Protection of Children) Act, 2015.

² The Constitution of India, 1950.

³ The 86th Constitution (Amendment) Act, 2002.

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I.I CONCEPT AND CAUSES OF JUVENILE DELINQUENCY:

Juvenile means any person who is not able to understand the nature of the act or has not reached at the age to behave maturely. In the terms of law, juvenile means a person who has not attained a particular age prescribed in law to make him liable for any crime committed by him and make him liable for his criminal acts like an adult person.⁴ An interdisciplinary study on juvenile delinquency discloses that across the world, many behavioural changes occur in the juveniles/adolescents, which are related to the sudden changes in their body due to hormonal surge, associated with puberty. The changes are most apparent in physical parameters, for example, change in height and weight of the adolescents and are soon followed by other sexual and physical changes of maturity. These physical changes are accompanied by mental changes also. According to *the UN Convention on the Rights on Child*, “A child means every human being below the age of 8 years, unless under the law applicable to the child, the majority is attained earlier”⁵ According to National Plan of Action for Children, 2005, the definition of a child is “a person up to the age of 18 years”⁶.

I.II JUVENILE DELINQUENCY:

Delinquency is such a behaviour of a juvenile which is socially not permitted in any society. It is unwelcomed action, omission or immoral behaviour of a juvenile. There are certain social obligations which that are anticipated from a child by the society and when a child fails to meet those obligations, he is considered to be delinquent. A juvenile delinquent is a behavioural disorder which is generally defined as “a child trying or pretending to act like a grown-up or an adult”. The behaviour of a child can be seen a childish foolish behaviour but it's a matter of concern. It is very difficult to make a distinction between a delinquent child and a normal child. There is a very unclear distinction between them. Generally, there is a haze of ambiguity and confusion surrounding delinquency and there is no single general acceptable definition for it. The first-ever legislation juvenile delinquency, passed by the State

⁴ Section 2 (k) Juvenile Justice Act, 2006 amended 2016.

⁵ available at: <https://childlineindia.org.in/pdf/NationalPlanAction-2005.pdf> (last visited on 8 November, 2019).

⁶ Arms Act, 1959 (Act No. 54 of 1959) Sec.9.

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of Illinois in 1899 which specifies various specific kinds of delinquency in addition to offences covered by the criminal laws.⁷ The Illinois law defines “Child/delinquent as a person who is incorrigible or who is growing up in idleness, one wanders about the streets in night time without being on any lawful business, or one who is quietly of indecent or lascivious conduct.”⁸ A criminal activity committed by an adult which is in violation of law is considered as a crime and is punishable in law but if the same activity is committed by a child below a particular age, it is not considered as a crime and is referred juvenile delinquency no matter child with full understanding has committed a very serious, grave, grim and a heinous crime.⁹

The Riyadh Guidelines, for the prevention of Juvenile delinquency, assert that "youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process intent to disappear spontaneously in most individuals with the transition to adulthood; a great majority of young people commit some kind of petty offence at some point during their adolescence without this turning into a criminal career in the long term."¹⁰

I.II.I JUVENILE IN CONFLICT WITH LAW¹¹

Juvenile in a conflict of law means any person who is, under the age of 18 years, alleged to have committed an offence or being suspected of committing an offence. "Child in Conflict with Law¹²" means "A child who is alleged are found to have committed an offence and who has not completed 18 years of age on the date of commission of such offence". These children cannot be treated as an adult.

⁷ Shruti Chaturvedi and SorabhDahiya, “*Juvenile Delinquency: Estimating fearless symbol, and Fertilization*” available at ijldai.thelawbrigade.com/wp-content/uploads/2017/01/ShrutiSorab.pdf (last visited on 8 November,2019).

⁸ Saroj Choudhary, “*Juvenile Delinquency: Elementary Concepts, Causes and Prevention*” 3 *IJHSR* 53 (2017).

⁹ Available at: jlcjnet.com/journals/jlcj/Vol_2_No_2_December_2014/14.pdf (last visited on 10 November,2019).

¹⁰ Available at:http://www.unhchr.ch/html/menu3/b/h_comp47.htm (last visited on 12 November, 2019).

¹¹Geeta Chopra, “*Child Rights in India: Challenges and Social Action*” 85 (Springer, New Delhi, 2015).

¹² Section 2(13) of Juvenile Justice (Care and Protection of Children) Act, 2015.

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I.III CAUSES OF JUVENILE DELINQUENCY:

Juvenile delinquency is increasing day by day and it has become a global phenomenon. No one is born criminal it's an environment and circumstances which them criminal. There are various reasons all factors which make the juvenile to be arrogant violent. There are various factors which influence the child to commit the offence like social factors, economical factors etc. It's our duty to understand what circumstances lead the child to commit the crime. State is considered to be the guardian of the society and it's his duty to help a child to come out of that situation. With the proper guidance and support a child can be rehabilitated. Some of the factors are as follows:¹³

I.III.I SOCIAL FACTORS:

The social evils are prevalent in the society like gender discrimination, racial discrimination, child labour, sex discrimination etc. If any of the member of the family have suffered from these evils, there are more chances that they will indulge in criminal activities. Sometimes, the juveniles develop delinquent sub-culture because of cultural deprivation and status frustration that they suffer in their early age.

- a. They often adopt the delinquent tendencies due to peer pressure of the society.*
- b. Poverty and lack of education are also responsible for juvenile delinquency.*
- c. Broken families (the families in which there are no social bonding between the members) are directly related to higher rates of delinquency.*
- d. The negative role of family has also been highlighted in playing major role in juvenile delinquency*

I.III.II PSYCHOLOGICAL FACTORS:

There are psychological explanations to delinquency also, for example, ego, attitude etc. when a juvenile is maltreated by the society then it causes a direct impact on the immature mind of the juvenile and just for the sake of ego or attitude juvenile changes its mind toward anti-social activities. Sometimes when the self-control and social control through primary groups become weak, the juveniles develop delinquent tendencies Amongst these

¹³ A. Siddiquie; Criminology and Penology (, Central La Agency Allahabad) 23rd ed. 2012.

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neighbourhood ties and social organization can be an important determinant in the delinquent behaviour of the juvenile in our society.

I.III.III BIOLOGICAL FACTORS:

The biological explanations suggest that individuals are influenced by their biological/genetic make-up. They are not exactly the captives of biological designing, but it does render these individuals inclined towards delinquent tendencies. The hormonal changes in the body of the juveniles are responsible for their impelling/moving and rebellious behaviour. Ecological/environmental and economic parameters also play important trigger points in the lives of the juveniles.

I.III.IV ECONOMIC FACTORS:

Due to industrialization and growth, people are shifting to urban areas to have a standard life and good education for their children. But the cost of living is very high. In the race of having luxurious life mostly both the parents are working. They get less time to devote to their children leaving them neglected at home without any control. Lack of parental control, want of love and affection, unsatisfactory desires, basic needs etc. are the factors which cause Juvenile delinquency.

I.III.V FAMILY STRUCTURES:

Family is the first school for children to learn what is good and what is bad. Because of a broken family, single-parent families or parent's frequent fights there are more chances that juvenile indulges in criminality. Parents who are very harsh and strict towards their children and punish them on small issues, children start disrespecting them and stop sharing their problem with them. Children seek a bad company which they themselves even don't know is bad. If the parents or the member of a family don't show moral behaviour or they involve in criminal activities, then children learn such things from them.

I.IV JUVENILE JUSTICE SYSTEM IN INDIA:

The term "Juvenile Justice" was sought to be clarified for the sixth UN congress on the prevention of crime and the treatment of offenders in view of the different interpretation made

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of it during the meeting.¹⁴ Juvenile justice was derived from a belief that the problem of juvenile delinquency and youth in abnormal situations are not amenable to resolution within the framework of the traditional process of criminal law. The JJS therefore is not designed to respond to the needs of young offenders. The main role of JJS has been divided into two ways; one principal role is to provide the specialized and preventive treatment services to the children and Secondary Principal role is the prevention, rehabilitation and improved socialization.¹⁵ Juvenile Justice System is based on the thesis that a child is immature in nature and he is not able to understand the consequences of this act. Due to immaturity, it is very easy to motivate them criminal activity. Our society follows the Reformation and Rehabilitation approach to form the basis of rehabilitation. So that our future can get secure and a delinquent become a good citizen and get all those opportunities which can be enjoyed by a child.¹⁶

Some authors have evaluated the origin and development of Juvenile Justice in India). Before the coming of British's in India, the actions of children were governed under existing Hindu and Muslim laws, where the respective families of the person concerned were held responsible for monitoring the actions of their children. In India, the need for new legislations for children was felt under the British rule. Some specific laws were passed between 1850 and 1919, (like the Apprentice Act, 1850, the Code of Criminal Procedure, 1861 and the Reformatory School Act, 1876 and 1897). The first Central Legislation was passed in 1986 (Juvenile Justice Act). It provides uniformity in the entire country in the context of Juvenile Justice Law. In the case of Sheela Barse,¹⁷ the Supreme Court said that there a need for uniform law and Parliament should enact Central legislation for juveniles. After this, the Juvenile Justice Act, 1986 was enacted. It was passed to provide care, protection, treatment,

¹⁴ Ved Kumari; The Juvenile Justice System in India 2nd Ed. Oxford University Press, Delhi, 2012

¹⁵ Working Paper, UN Congress on Prevention of Crime and Treatment of Offenders, Caracas, Venezuela 25th August, 1980

¹⁶ Child Jurisprudence and Juvenile Justice, available at: [shodhganga.inflibnet.ac.in/bit stream/201.pdf](http://shodhganga.inflibnet.ac.in/bitstream/201.pdf) (last visited on 14 November, 2019).

¹⁷Sheela Barsev. Union of India 1986 (3) SCC 596.

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development and rehabilitation of neglected and delinquent juveniles and for the settlement of certain matters related to and disposition of delinquent juveniles.¹⁸ Juvenile Justice Act is formed on certain guiding principles which need to be followed. The act is basically drawn from all the national and international standards pertaining to children wherein a strong impetus is given to the fulfillment and protection of child's right, the emphasis is also made on the integration of the child into the family system to ensure proper care and protection all kinds of exploitative situations.¹⁹

Some of the basic fundamentals which have to be followed in the administration of rules;

- a) *Principle of Family Responsibility,*
- b) *Positive measures to promote the well-being of the child,*
- c) *Reduce Vulnerabilities and enhancement of child identity,*
- d) *Principle of Non-Waiver of Rights,*
- e) *Principle of Last Resort,*
- f) *Principle of Dignity and Worth,*
- g) *Principle of Equality and Non-Discrimination,*
- h) *Principle of Right to be Heard,*
- i) *Principle of Safety (No Harm, No Abuse, No Neglect, No Exploitation and No Maltreatment),*
- j) *Principle of Best Interest,*
- k) *Principle of Right to Privacy and Confidentiality.*²⁰

If these principles are properly followed up then certainty is high that every child comes into contact with the Juvenile Justice system and is assured to be safe, protected, cared.

¹⁸<http://indianbarassociation.org/wp-content/uploads/2013/12/Juvenile.pdf> (last visited on 14 January r, 2020).

¹⁹*Ibid.*

²⁰ Juvenile Justice (Care and Protection of Children) Act, 2015 (Act No 2 of 2016).

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I.V CURRENTS TRENDS UNDER CRIMINAL LAW:

All the enactments were trying to bring an increasing number of children within the ambit of Juvenile justice. The *Nirbhaya Case* on December 16, 2012, resulted in the use of social media to organize a continuous protest against the brutal rape. The media put the limelight on a 17-year-old child involved in gang rape. The media flashes headlines that the child was most brutal of all the accused in this rape. With the *Criminal Law (Amendment) Act, 2013*, all women were presumed to be safe except from Juvenile who was containing to pose the biggest threat to society of women in India.

After 2012 Delhi gang rape it was found that one of the accused was minor and just a few months away from being 18. So, I was tried in Juvenile Court. On 31st July 2013, *Subramanian Swamy*,²¹ BJP politician filed a Public Interest Litigation in the Supreme Court of India seeking that the boy be tried as an adult. The Supreme Court asked the Juvenile Court to delay its verdict. When the Supreme Court allowed the Juvenile Court to give its verdict, the boy was sentenced to 3 years in a reform house. The mother of victim criticizes the verdict and said by not punishing the accused the Court is encouraging other teenagers to commit similar offences. Judiciary is an important part of the State.

The primary duty of the Judiciary is the administration of justice. It is expected from the judicial system and the judicial decision-maker that the responsive contribution towards upholding child rights is made by them. In Interpretation of new enactment, the role of the supreme court and various high courts is appreciable. The judiciary plays an utmost role in upliftment of children in the need of protection and care and in early disposition of Juvenile in conflict with law. The trend set by the Supreme Court and high courts are the guiding factors for the lower judiciary.²² The focus has been on strengthening the juvenile justice system by facilitating rehabilitation and better treatment of young people in conflict with the

²¹*Subramanian Swami v. Raju through the Juvenile Justice Board* (2013) 10 SCC 465.

²²VenudharRoutiya, "A Critical Study of Juvenile Justice System in India", available at:

<http://www.serialsjournals.com/serialjournalmanager/pdf/1500032698.pdf> (last visited on 20 November, 2019).

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law and by improving protection of child victims. The *Supreme Court* made the following statement in one of the cases. “*Regrettably our juvenile justice system still thinks in terms of terror, not cure, of wounding, not healing, and a sort of blind man's bluff is the result. This negative approach converts even the culture of Juvenile homes into Juvenile jails. From the reformatory angle, the detainees are left to drift, there were no constructive programme for the detainees nor correctional orientation and training for the institutional staff... Juvenile detainees need a new focus and a new rationale*”.²³

The committee headed by Justice J.S. Verma on the amendment of criminal laws rejected the demand for lowering the age of Juvenile to 16. As it found no merit reducing the age of Juvenile for certain offences and relied among others, on the fact recidivism had fallen from 8.2% in 2010 to 6.9% in 2011.²⁴ NCRB data shows that the percentage of Juvenile crimes, when seen in proportion to total crimes, increased from 1 % in 2003 to 1.2 % in 2013 and in the same period percentage of all Juvenile accused increased from 54 % to 66%.

One of the heinous cases came in limelight *Muzaffarpur Shelter Home Case* wherein 44 girls were rescued on 30 May, 2019 following allegation of sexual abuse. An FIR lodged on May 31 named Thakur's NGO, following which 10 people, including Brijesh Thakur, were held. It's a network of police, politicians, administration and criminals exploiting and torturing the girls at home. The youngest to be raped was 7 years of mute child. The matter was handed to CBI for further investigation.²⁵

I.VI AN OVERVIEW OF JUVENILE JUSTICE ACT, 2015:

The brutal gang rape and murder of a female physiotherapy intern in Delhi in December, 2012, by six men, one of whom was a seventeen-year-old juvenile, retriggered the debate on

²³Sattoov. *State of UP* 1979 2 SCC 620.

²⁴ available at: <http://docs.manupatra.in/newsline/articles/Upload/0A6F7370-9CF9-4A96-8E88-5B8195F5DD83.pdf> (last visited on 15 November, 2019).

²⁵ “available at: <https://indianexpress.com/article/india/bihar-muzaffarpur-shelter-home-case-bihar-scandal-brajesh-thakur-paratah-kamal-sexual-abuse-under-his-care-5292021/> (last visited on 16 January , 2020).

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the age limit of juveniles. Under the existing law, the maximum punishment that could be given to juvenile is 3 years of detention in a remand home, irrespective of the gravity of the offence. This led to hue and cry demanding a change in the juvenile committing grave offences like rape and murder. The Committee on Amendments to Criminal Laws, headed by *J.S. Verma*, J. was constituted to examine the deficiencies in the existing criminal law regime governing sexual assault against women. The Committee categorically rejected the demand for lowering the age of juveniles to sixteen. Instead, it opined that there was a need to reform and restructures the existing juvenile justice and welfare system and called for stricter implementation of the 2000 Act. It found no use in reducing the age of juveniles for certain offences and relied, among others, on the fact that recidivism had fallen from 8.2 percent in 2010 to 6.9 percent in 2011.²⁶

I.VI.I CRITICISM AND LOOPHOLES IN THE JUVENILE **JUSTICE (CARE AND PROTECTION) ACT 2015:**

- 1) *Discretionary power of Juvenile Justice Board- Juvenile Justice (Care and Protection) Act, 2015 there is no clear provision in which a case will be transferred to the court and Juvenile is treated as an adult. Because of this ambiguity the board uses its discretionary power in passing orders.*
- 2) *There are circumstances in which Juvenile Justice Board order to transfer the case to adult Court and in another case does not refer the case to the adult Court. In second case, juvenile justice board decides not to seek assistance from expert for preliminary assessment.*
- 3) *Is the Juvenile Justice Board due to ambiguity in juvenile justice act using its discretionary power inconsistently? It is discretionary power of the Board under Section 15 to conduct preliminary enquiry to determine whether a Juvenile offender is to be sent for rehabilitation or to be tried as an adult²⁷*

²⁶Supra note 21.

²⁷ The New Juvenile Justice Act has Opened A Can of Worms, available at: <https://www.thequint.com/news/india/new-juvenile-justice-act-leads-to-fresh-problem> (last visited on 16 November, 2019).

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- 4) *In 2015 Act, juvenile by treating them as an adult violates their right of equal opportunity and take their right of fresh start. By sending the juveniles to Juvenile home for the reformation give them a second chance for fresh start which is known as Doctrine of fresh start. Juvenile rehabilitation Centre cure their illness and give them new life so that they can grab all the new opportunities to live a normal life.*
- 5) *2015 Act support the principle of fresh start by securing their right of privacy by erasing the record of Juvenile offenders. There are some provisions which deviates the right of privacy in special circumstances. The special circumstances are not specifically mentioned and open a door which could lead to "racial profiling" of offenders on the basis of race, cast, religion, background etc.*
- 6) *There is an exemption for the juvenile offender under 2015 Act that they will not be disqualified under any law for commission of an offence. But if the child is above the age of 16 years who has committed offence is not exempted and there is no protection for such child and under this clause.*
- 7) *The basic objective of any Act is the welfare of the society and the main purpose of Juvenile Justice System is the welfare of children. But the 2015 act is against this idea. Treating the children above the age of 15 years as an adult in heinous crimes make them criminal leading to devastation of rehabilitation foundation of Juvenile Justice System. There are various emerging reasons for the Juvenile delinquency which legislature does not consider. These juveniles in conflict with law need treatment and cure for their illness. There is no need to treat them as an adult or subject then to different judicial system. By doing this we are violating Article 14 clause 3 and 15 clauses 3 of the Constitution and all International conventions on Protection of Children which are signed by India.*
- 8) *According to my views the Juvenile Justice (Care and Protection) Act, 2015 is a good step taken by government. But there should be a provision for repeating offenders and it shall apply on all children immaterial of their age. So, the misuse of this act can be stopped by the juvenile itself and any other person hiring them to commit the offence.*

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I.VI.II FINDING REGARDING AMENDMENT IN JUVENILE

JUSTICE ACT:

Treating the juvenile in heinous crime is a good step. Some of the reasons are as follows;

- 1. The basic reason for increasing the number of juveniles in crime is the order of conviction only for 3 years in a correctional home not going to deter others from committing a crime against women.*
- 2. By awarding only 3 years of imprisonment even for the heinous crime does not provide justice to the victim and punish the accused.*
- 3. Crime is all about maturity not about the age so, this is age bar should be removed.*
- 4. Measures which can be taken for the protection and rehabilitation of Juvenile. Some of them are as follows:*

The provision for the rehabilitation of the juveniles but these homes and executive authority are not working properly. There is a lack in following up of these provisions. Society participation and sensitizing in matters related to juvenile delinquency is important. The people in the society are sensitized about the matters of neglected child and child living in a difficult situation. The rehabilitation process can make better and easy life to the children in conflict of law.

I.VII JUDICIAL TRENDS IN PROTECTING JUVENILE

DELINQUENCY:

Role of the Court is very important for the securing the rights of the human including the children, children are the asset of the nation and it is the primary duty of the court to secure the rights and facilities available to the citizen for the welfare and development of the society. The Supreme Court has commanded a remarkable job for the care and protection of the children. Some of the highlights showing stand of judiciary in the Welfare of children. The Supreme Court in an order in the case of **Bachpan Bachao Andolan v. Union of India**,²⁸

²⁸ Writ Petition (civil number) 75/2012, date of order September, 2017.

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speaking through J.M.B Lokur and Deepak Gupta observed that special attention should be given in the case of disasters. The Supreme Court directed National Disaster Management Authority to take immediate steps to take care of children's particularly in case of disasters.

The Supreme Court in the case of **Re-Exploitation of Children in orphanages in the State of Tamil Nadu v. Union of India**²⁹, the legislation on child care and protection shall be benefited to all the categories of children. Court said that the definition of expression "child in need of care and protection" of Juvenile Justice Act, 2015 should be interpreted as exhaustive as possible. Guidelines are also issued by the court to protect the rights of children.

In case of **Gaurav Jain v. Union of India**³⁰, the Supreme Court said that children's have the right to equality of opportunity, care and dignity, rehabilitation and protection by the society with both hands. In case of **Lakshmikant Pandey v. State**³¹, observed that a child has a right to be loved. He also has a right of moral and material security.

In case of **Kakoo v. State of Andhra Pradesh**³², a boy of 13 years had committed a rape on a girl child of 2 years. Deducting the sentence Justice Sarkaria observed that a long-term imprisonment is sure to turn Juvenile delinquent into criminal and laid an emphasis that in case of child offenders, penological trend command a more humanitarian approach.

In Case of **Raisul v. State of UP**³³, the Supreme Court observed that the death penalty shouldn't be imposed on a person who is below the age of 18 years. In case of **Rahul Mishra v. State of Madhya Pradesh**³⁴, it was observed that the juvenile delinquent prima facie appears to be guilty but he is specially protected under act, under section 12 of the act for the reason of his age has to be granted. In the case of **Subramanian Swamy v. Raju Through**

²⁹ (2017) 2 SCC 629.

³⁰ AIR 1993 SC 2178.

³¹ (1984) 2 SCC 244.

³² AIR 1977 SC 1991.

³³ AIR 1977 SC 1822.

³⁴ 2001 Cr. LJ 214 (MP).

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Member, Juvenile Justice Board,³⁵ Delhi Gang rape case which was held on December 2012.

In this case one of the accused was juvenile and he has not treated as an adult after doing such a heinous crime. He was tried by the Juvenile Justice Board which send him to a special home for 3 years and later on set free to wander freely in the society. This is the irony of our law. In the case of **Mohammad Feroz Bhola v. State**³⁶, the court observed that bail to a juvenile is not the Mercy but the mandate to such person apparently juvenile. The court further observed that section 12 of the act is mandatory unless there are reasonable grounds to avoid so. The above case studies show a pattern of judicial actions in the arena of juvenile justice in India.

It shows that Indian Judiciary has started becoming an ally of individual citizen. The Indian judiciary is emerging as a collaborator and facilitator for fostering better Juvenile justice in the country. Within the ambit of constitution and the legislation relating to Juvenile justice the Judiciary is making efforts by proactive approaches to ensure the well-being of children in the country. The approach is not to torment delinquent with the fear of punishments but to help them and guide to get out of juvenile follies quickly and to gradually transform into responsible adults in the future.

II. CONCLUSION AND SUGGESTIONS:

Juvenile delinquency is a grave offence and it has a deterrent effect on the social order in a country. The increase rate of Juvenile crime is setting a trend world over and more and more involvement of the youth in violent crimes. It is a serious issue for the nation which is needed to be handled carefully. The response has been shown by the analogous system and judiciary to the trend of Juvenile crimes as some amendments in law pertaining to Juvenile justice is made. The juvenile justice act of 2016 is a progressive step by the Government of India to keep the track in changing trend of Juvenile crimes. Finally, the recent judgment on Nirbhay

³⁵ (2014) 8 SCC 390.

³⁶ (2005) 3 JCC 313.

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case has shown that the changes brought by the legislation under the *Criminal Laws (Amendment) Act, 2013*, has been approved by the Supreme Court in delivering the justice to the victim of sexual offences cases, that no laxity should be provided to the offender claiming the juvenility. It is the need of hour that the certain stringent action is required to overcome the problem of delinquency. The role of the society, parent and their friend should be estimated to reduce the pressure to the children.

They really need more attention than the other's' offender. The latest trends of Juvenile delinquency analyzed in India are in respect of age pattern and nature of offence committed. It appears that we need amendments and reviews our juvenile justice policy in the welfare of the society at large the main objective of the JJS scheme was to benefit the delinquent rather punish them.