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# **THE JUVENILE MENACE: THEORETICAL PERSPECTIVES ON JUVENILE DELINQUENCY AND REDRESSAL STRATEGIES**

AUTHORED BY - FASEEHA KHATOON & ANKUR KUMAR

## **ABSTRACT**

*Juvenile delinquency as a growing problem globally has startled the nations world over. Juvenile delinquents are comparatively trickier to deal with, as they're different from the adult, hardened criminals. A lot of things, viz. the underlying factors that pushed the young juveniles on the path of committing illegal acts in the first place seem to have an important bearing on what can be done to lasso the young persons away from the path of the crime and delinquency. These factors can be studied by applying them to each individual case and deducing what led the juvenile to the commission of the delinquent act. It will also be interesting to see the theories of crime as well as the psychological theories that delve into the depth of studying the thunderous phenomenon of juvenile delinquency.*

*It is important to take the prevalence of juvenile delinquency seriously because the psyche of a juvenile works differently from that of an adult criminal, and that means we have hope. We can place back the juveniles back into the mainstream society where they lead the live of normalcy and dignity they deserve, and in turn serve as the stilts building a more stable society of tomorrow.*

*The author, therefore will focus upon the present law in place, nationally and internationally, pertaining specifically to the juvenile delinquents, and the protection of their fundamental rights. It will also be seen to the extent that they have been affective till now. The author will also study some of the cases of juvenile delinquency in India, as well as in other jurisdictions, and examine the kind of treatment deemed right to be meted out to the juvenile offenders.*

*The paper also aims to discuss the theories of crime and psychology, which may prove to be useful in the study of juvenile delinquency.*

*Lastly, the author will attempt to encapsulate the suggestions, and outcomes reached after collating the theories, cases and various national and international laws.*

**Keywords:** Beijing Rules, Havana Rules, Theories of Criminal Behaviour, Juvenile Delinquency, Juvenile Justice Act, Restorative Justice.

## Chapter- One

### Introduction

*The greater the degree of industrialisation, modernization, urbanization and the like, the higher the rates of delinquency and criminality. Juvenile delinquency is one of the major social problems of deviation resulting from the rapid pace of industrialization and urbanization.*

-D.C. Gibbons

The term juvenile is derived from the Latin word *juqvenilis* or *juvenis* which denotes a “young person”.

Juvenile delinquency is a term to denote the acts of ‘crime’ committed by minors. They do not fall under the category of crime *per se*, like the ones committed by adult offenders. Juvenile delinquency has multiple aspects to it, in so much as it is not just identified in legal terms but also has psychological contours to it. Juvenile delinquent is defined in the Juvenile Justice Act<sup>1</sup> (hereinafter, JJ Act) as a “child in conflict with law”.

Juvenile delinquency was classified into four broad parts by Howard Becker in 1966,<sup>2</sup> who gave the labeling theory. As per this theory, delinquency can be individual, group-supported, organized and situational.<sup>3</sup>

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<sup>1</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015, s. 2(13).

<sup>2</sup> Amy Kroska, James Daniel Lee, *et. al.*; “Juvenile Delinquency and Self-Sentiments” 98(1) *Social Science Quarterly* (2017), available at: <https://www.jstor.org/stable/26612395>.

<sup>3</sup> Abhilasha Belwal, Ashish Belwal, “Juvenile Delinquency in India” *Bharati Law Review* 311 (2016), available at: <https://docs.manupatra.in/newslne/articles/Upload/B4443CDC5144-4816-946C-7C5EBE5122FC.pdf>.

Additionally, R.C Trojjanovicz<sup>4</sup> categorized juvenile delinquents into five categories: gang organized and collective delinquency, unsocialized aggressive boys, accidental offenders, occasional delinquency and professional delinquency.<sup>5</sup>

Eaton and Polk also in their book<sup>6</sup> gave five categories of juvenile delinquencies: minor violations, property violations, major traffic violation, including automobile theft, human addiction and body offences.<sup>7</sup>

The modern-day concept of Juvenile delinquency as we know today, is a relatively recent concept.<sup>8</sup> Scholars say that juvenile delinquency was socially constructed concept, in order to indicate that the concept is a product of sweeping social, political, economic, and religious changes.<sup>9</sup>

This transformation of thought and practice eventually led to a series of changes at the end of the nineteenth century that created the legal status of “juvenile delinquent” and a separate legal system that included juvenile courts and reformatories.<sup>10</sup>

The offences committed by juvenile delinquents are classified into Status offences and Delinquent offences.<sup>11</sup> We have provisions for special courts to deal with juvenile offenders that have specially qualified judges for the trial of the juveniles.<sup>12</sup>

The aim of this paper would be to analyse the present systems to deal with juvenile delinquency cases, and the Indian and International laws for the same. The paper will also study the factors responsible for the propensity to commit crime among the youth. The paper in doing so, will throw light on the various theories of crimes as applied to the delinquent juveniles.

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<sup>4</sup> *Juvenile Delinquency: Concept and Control*, (Prentice Hall, New Jersey, 1973).

<sup>5</sup> *Ibid.*

<sup>6</sup> J.W. Eaton, K. Polk, *Measuring Delinquency* (Pittsburgh Press, Pittsburgh University, 1961).

<sup>7</sup> *Ibid.*

<sup>8</sup> James Burfeind, Dawn Jeglum Bartusch *Juvenile Delinquency* (Routledge, London and New York, 3<sup>rd</sup> edn., 2016).

<sup>9</sup> David S. Tanenhaus (eds.) *Juvenile Justice in Global Perspective* (NYU Press, 2015).

<sup>10</sup> *Ibid.*

<sup>11</sup> Abhilasha Belwal, *Id.* at 308.

<sup>12</sup> Special Courts for Juvenile Justice, *Press Information Bureau*, Ministry of Women and Child Development, Government of India (2019), available at: <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1579557>; see also, The Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 2 (20).

The underlying causes such as drug abuse, poverty, familiar situations, lack of education and so on, that cause the increasing rates of juvenile delinquencies, through these theories will be explored. Further, the importance of rehabilitative techniques through restorative-justice, rather than the traditional punitive measure will be highlighted, backed by important research studies on the subject.

## Chapter- Two

### Laws Regarding the Juvenile Offenders in India

Historically, during the British era in India, there was the Act<sup>13</sup> to punish the juveniles and set them free so they don't repeat the offence in the future.

The IPC also stipulated certain sections concerning the juvenile offenders, however, we find that the Code exempted the children below the age of seven years.<sup>14</sup> We also have the Juvenile Justice Act<sup>15</sup> which is the principal legislation laying down provisions for the care, rehabilitation and protection of the juvenile delinquents.<sup>16</sup> The POCSO Act<sup>17</sup> also looks after the welfare and protection of children from sexual harassment, and is a gender-neutral legislation.<sup>18</sup>

Internationally, there is the UNCRC<sup>19</sup> which was ratified by India in 1992. In addition to this, the Beijing Rules<sup>20</sup> also deal with the general well-being of a juvenile, and her family.<sup>21</sup>

All of these laws aim towards the welfare, rehabilitation and recognition of the scope of reformation in the juveniles, while they are in their formative years. If the young offenders are properly guided, they might more easily go back to being part of the mainstream society in a seamless manner.

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<sup>13</sup> Whipping Act, 1864.

<sup>14</sup> Indian Penal Code, 1860 (No. 45 of 1860), s. 82.

<sup>15</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016).

<sup>16</sup> *Kallu v. State of Haryana* AIR 2012 SC 3212.

<sup>17</sup> The Protection of Children from Sexual Offences Act, 2012 (No.11 of 2013).

<sup>18</sup> *Ibid.*

<sup>19</sup> United Nations Convention on the Rights of the Child, 1989, GA RES 44/25, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>20</sup> United Standard Minimum Rules for Administration of Juvenile Justice, 1985, GA A/RES/40/33, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile>.

<sup>21</sup> *Ibid.*

### 2.1. Indian Legislative Acts:

With the increase in crimes committed by the juveniles in the society, the JJ Act<sup>22</sup> was introduced to cater to the latest trends of delinquency among the juveniles. The Act has divided juveniles into “child” and “child in conflict with law”.<sup>23</sup>

A “child” under JJ Act is defined as, “a person who has not completed eighteen years of age.”<sup>24</sup> The concept of “child in conflict with law” in the Act is defined as, “child who alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence.”<sup>25</sup>

“Child in need of care and protection” is defined under section 2(14)<sup>26</sup> of the Act and it lays down twelve instances when the child would be considered in need and protection”.<sup>27</sup> The conditions laid down in the section range from including the child who is without any means of subsistence and/or shelter, lives under inhumane conditions and has to resort to begging, has to be under the protection of an abuser or exploiter, is abandoned and without support, and vulnerable children, and so on.<sup>28</sup> The procedures to deal with the child in conflict with law are laid down in the Act.<sup>29</sup>

The Act also provides with a definition of “juvenile” as, “a child below the age of eighteen years”.<sup>30</sup>

The JJ Act<sup>31</sup> and JJ Model Rules, 2016<sup>32</sup> recognise provisions relating to the protection of child in conflict with law<sup>33</sup> and, a child in need of care and protection<sup>34</sup>.

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<sup>22</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016).

<sup>23</sup> *Id.* ss. 2(12), 2(13).

<sup>24</sup> *Ibid.* s. 2(12).

<sup>25</sup> *Ibid.* s. 2(13).

<sup>26</sup> *Ibid.*

<sup>27</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 2(14).

<sup>28</sup> *Ibid.* s. 2(14).

<sup>29</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 14.

<sup>30</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 2(35).

<sup>31</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016).

<sup>32</sup> The Juvenile Justice (Care and Protection of Children) Model Rules, (no. 2 of 2016).

<sup>33</sup> *Ibid.* Chapter III.

<sup>34</sup> *Ibid.* Chapter V.

### **2.1.1. Classification of Offences under the JJ Act:**

The offences classified under the JJ Act<sup>35</sup> are threefold:

**Petty Offences:** the kinds of offences for which the maximum punishment under the Indian Penal Code (hereinafter IPC) or any other law for the time being in force is imprisonment up to three years.<sup>36</sup>

**Serious offences:** the offences for which the maximum punishment under the IPC or any other law for the time being in force is imprisonment between three to seven years.<sup>37</sup>

**Heinous offences:** defined as offences for which the minimum punishment under the IPC or any other law for the time being in force is imprisonment for seven years or more.<sup>38</sup>

In the case of commission of heinous offences by a juvenile, the JJ Board has to commit an inquiry to assess the mental and physical capabilities of the said juvenile and also whether the juvenile has rationality to understand the nature and gravity of the act apparently committed by him.<sup>39</sup>

### **2.1.2. The Juvenile Justice Board<sup>40</sup>**

In addition to these provisions, the Act also provides for the formation of a Juvenile Justice Board (hereinafter, JJ Board), to exercise functions relating to the children in conflict with law in every district.<sup>41</sup> The Board also discharges functions relating to the children in conflict with law and ensure that the juvenile offenders are cared for and protected, and are not treated as adult or hardened criminals.<sup>42</sup>

As per the Act, the JJ Board has the responsibility to ensure that the juvenile who has been charged with an offence is not subject to ill-treatment and is kept in an environment suitable for children.<sup>43</sup>

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<sup>35</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016).

<sup>36</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 2(45).

<sup>37</sup> *Id.* at 2(54).

<sup>38</sup> *Id.* at 2(33).

<sup>39</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 15.

<sup>40</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), ss. 4-9.

<sup>41</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 4.

<sup>42</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 8(3).

<sup>43</sup> *Id.* at 14(5)(b), (c).

The Act consolidates the eligibilities<sup>44</sup>, term of office,<sup>45</sup> termination<sup>46</sup> to be a member of the JJ Board and what requirements need to be met in order to be a member of the JJ Board. It also lays down the powers given to the Board, thereby enshrining on it the duty and responsibility to protect the rights of the juvenile offender at every stage of the proceedings under it.<sup>47</sup>

On a reading of the provisions related to the JJ Board it can be found that the welfare of the child has been intended to be of paramount importance.

### **2.1.3. Child Welfare Committee<sup>48</sup>**

The JJ Act provides for one or more Child Welfare Committees (hereinafter CWC) to be constituted in every district, to deal with the matters concerning the welfare of children, for the children in need of care and protection.<sup>49</sup>

The Act, in laying down the procedures followed by the CWC lays down that it shall meet at least for twenty days in a month.<sup>50</sup> In doing so, the CWC in its sitting will check the care and functioning for the welfare of the children.<sup>51</sup>

The Committee's functions and responsibilities include taking cognizance<sup>52</sup> of and receiving children before it, conducting inquiry,<sup>53</sup> directing Child Welfare Officers to conduct social investigations,<sup>54</sup> directing placement of a child in foster care,<sup>55</sup> conducting at least two inspection visits per month of residential facilities.<sup>56</sup>

The CWC is also responsible for restoring abandoned or lost children to their families,<sup>57</sup> taking action for rehabilitation of sexually abused children who are reported as CNCP<sup>58</sup> by Special

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<sup>44</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), ss. 4 (2), (3), (4).

<sup>45</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 6.

<sup>46</sup> *Id.* at s. 4(7).

<sup>47</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), ss. 8 (2), (3).

<sup>48</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), ss. 27-30.

<sup>49</sup> *Id.* at s. 27.

<sup>50</sup> *Id.* at s. 28 (1).

<sup>51</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), ss. 28 (2).

<sup>52</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 30 (i).

<sup>53</sup> *Id.* at s. 30 (ii).

<sup>54</sup> *Id.* at s. 30 (iii).

<sup>55</sup> *Id.* at s. 30 (v).

<sup>56</sup> *Id.* at s. 30 (viii).

<sup>57</sup> *Id.* at s. 30 (x).

<sup>58</sup> *Id.* at s. 30 (xiii).

Juvenile Police Unit<sup>59</sup> or local police<sup>60</sup> under the POCSO Act.<sup>61</sup>

It can be inferred that the priority of the CWC and JJB remain the welfare and protection of rights of the child concerned. This can also be drawn from other sections of the act.

It has been mentioned in the Act that a child can both be in conflict with law, while also being a CNCP, and when that happens, both, JJB and CWC have to be involved.<sup>62</sup>

Similarly, without having committed any crime, even if the child is in need of care and protection in the opinion of the JJB, it can refer it to the CWC.<sup>63</sup>

In addition to the welfare provisions in the JJ Act, the JJ rules<sup>64</sup> also lay down provisions to take care of CNCP if it is found that he has been used in illegal activities or by some militant groups by adults,<sup>65</sup> or if a child commits any of the offences under s. 78 of JJ Act.<sup>66</sup>

#### **2.1.4. Procedure with Respect to Children in Conflict with Law<sup>67</sup>**

A child who is allegedly found to be in conflict with the law is placed under the supervision of a special juvenile police unit or a child-welfare police officer, as the case may be.<sup>68</sup> This is also to be done within the first 24 hours of apprehension of the child.<sup>69</sup>

Additionally, a child having committed a bailable or non-bailable offence has to be released on bail, even without the condition of surety being fulfilled.<sup>70</sup> It will be on the JJ Board to hold an inquiry when a child who is in conflict with law is presented before it, within the time period prescribed in the Act.<sup>71</sup> The Hon'ble Supreme Court of India in a writ petition<sup>72</sup> before it has

<sup>59</sup> The Protection of Children from Sexual Offences Act, 2012 (No.11 of 2013), s. 19 (1) (a).

<sup>60</sup> The Protection of Children from Sexual Offences Act, 2012 (No.11 of 2013), s. 19 (1) (b).

<sup>61</sup> The Protection of Children from Sexual Offences Act, 2012 (No.11 of 2013).

<sup>62</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 8 (3) (g).

<sup>63</sup> *Id.* at s. 17 (2).

<sup>64</sup> Juvenile Justice (Care and Protection of Children) Model Rules, 2015 (No. 2 of 2016).

<sup>65</sup> *Id.* at Rule 9 (3), 57 (2).

<sup>66</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (No. 2 of 2016), s. 78.

<sup>67</sup> "Living Conditions in Institutions for Children in Conflict with Law", Ministry of Women and Child Development, p. 177 (2017) available at: [https://wcd.nic.in/sites/default/files/Final%20Manual%202024%20April%202017\\_5.pdf](https://wcd.nic.in/sites/default/files/Final%20Manual%202024%20April%202017_5.pdf).

<sup>68</sup> The Protection of Children from Sexual Offences Act, 2012 (No.11 of 2013), s. 19 (1) (a).

<sup>69</sup> *Ibid.*

<sup>70</sup> The Protection of Children from Sexual Offences Act, 2012 (No.11 of 2013), s. 12 (1).

<sup>71</sup> Juvenile Justice (Care and Protection of Children) Act, 2000, s. 15.

<sup>72</sup> *Sampurna Behura v. Union of India*, WP (Civil) No. 473 of 2005.

also held that the implementation of the JJ Acts<sup>73</sup> should be proper and should cater to the needs of the children in the society, for which it also suggested that the Chief Justices of High Courts in every state should establish courts that are child-friendly.<sup>74</sup>

### **2.1.5. Criticism of the Act:**

Though a welcome piece of legislation, the JJ Act has also been under criticism, as it is said to shift focus from the children and their vulnerability which leads them on the path of crime, to punishing them for the said crime. The Act tries the children from the age of sixteen to eighteen for crimes, which are related to poor and illegal working conditions. This undermines the problem of child labour and diverts the need to address the problem of child labour and trafficking towards punishing the children for a situation they might themselves be victims of.<sup>75</sup>

## **Chapter- Three**

### **International Scenario**

Protection and welfare of children and focus on the rehabilitation and addressing the issues of delinquencies among the juveniles is an issue of global importance, and it is for this reason that internationally we have plethora of conventions and declarations for this purpose.

### **3.1 The UN Convention on the Rights of the Child<sup>76</sup>**

(Hereinafter UNCRC). It is the principal international instrument that takes into account the right of the child to be able to lead a life full of dignity, solidarity, liberty<sup>77</sup> and equality.<sup>78</sup> It is a legally binding document to recognize the “fundamental rights of the child, regardless of their race, religion or ability.”<sup>79</sup> It is in updation to the Geneva Declaration of the Rights of Child,<sup>80</sup> which was the first international instrument catering to the rights of the children.

Significant here is to mention the provision of UNCRC<sup>81</sup> which also recognizes the rights of a

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<sup>73</sup> Juvenile Justice (Care and Protection of Children) Act, 2000, 2015.

<sup>74</sup> Sampurna Behura, *Supra* note 73.

<sup>75</sup> Siona Chibber, “Child Trafficking and Child Labor Continues to Plague India” *Human Rights First* Apr. 8, 2024.

<sup>76</sup> UN Convention on the Rights of Child, 1987 UN GA/Res. 44/25, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>77</sup> UNCRC, 1987, art. 37

<sup>78</sup> UNCRC, 1987, *Preamble*.

<sup>79</sup> UNICEF, “How We Protect Children’s Rights With The UN Convention On The Rights of The Child” available at: <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>.

<sup>80</sup> Geneva Declaration of the Rights of Child, 1924, League of Nations.

<sup>81</sup> UNCRC, 1987, art. 40.

child who is-

“alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in the society.”<sup>82</sup>

The convention also provides for the guarantee of fundamental rights, such as privacy,<sup>83</sup> right against self-incrimination,<sup>84</sup> presumption of his innocence until proven guilty,<sup>85</sup> and so on.<sup>86</sup>

### **3.2. The Beijing Rules<sup>87</sup>**

Perhaps the most important international policy standards, keeping in mind the special cases of care, assistance and protection that juveniles merit are the Beijing rules of 1985 which urge the nations to assimilate what are the “bare minimum” standards for juvenile care into their respective national practices and laws.<sup>88</sup> The rules have an impartial application, irrespective of factors like caste, sex, colour, religion, birth and so on.<sup>89</sup>

These rules are aim to promote to the greatest possible extent, welfare of the juveniles, with as minimum resort to the juvenile justice system to intervene as possible.<sup>90</sup>

The rules are tailored in a way so as to cater to the age requirements for juveniles in different jurisdictions, also keeping in mind the social, cultural and economic milieu of different societies. The rules also mention the “principle of proportionality”, which is a well-known principle of the international law, that seeks to be punitive in proportion to the gravity of the offence committed. It also keeps in mind the various factors of the offenders, such as the socio-economic background, family situation and personal experiences. The principle is a safeguard to the fundamental rights of the young offenders.<sup>91</sup> Similarly, capital and corporal punishments

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<sup>82</sup> UNCRC, 1987, art. 40(1).

<sup>83</sup> *Id.* at art. 40(2) (b) (vii).

<sup>84</sup> *Id.* at art. 40(2) (b) (iv).

<sup>85</sup> *Id.* at art. 40(2) (b) (i).

<sup>86</sup> UNCRC, 1987, s. 40(2), 40(3)(a), (b).

<sup>87</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice, GA Res 40/33 (1985).

<sup>88</sup> *Id.* at pt. 5.

<sup>89</sup> Beijing Rules, 1985, Part 2.

<sup>90</sup> *Ibid.*

<sup>91</sup> Beijing Rules, 1985, rule 5.

are also not imposed.<sup>92</sup>

The rules importantly lay down the frequent resort to community services, and avoidance of formal trial as much as possible in cases of juvenile offenders. It underlines the repercussions that a formal trial and a formal prison setting might have on the young minds. In cases it is absolutely necessary, the rules lay down that the juveniles be placed in an institution, and for a minimum period necessary.<sup>93</sup>

Significant here is to mention the Indian landmark case, otherwise known as the *Jhabua* murder case<sup>94</sup>, where for the first time, despite the defense arguing that the juveniles being minors should be sentenced to rehabilitation, the crime was found to be heinous, of minors murdering the victim by stabbing him for a petty sum of Rs. 500. The court therefore, sentenced the minors, aged sixteen and seventeen respectively to life-imprisonment, thus making it the first time that minors were tried as adults under the JJ Act.

While some nations, like the US have prohibited death sentences for the juveniles, and this has been reiterated by the US Supreme Court as well,<sup>95</sup> there are nations that impose capital punishment on the juveniles, though they have been criticized in the international sphere.<sup>96</sup>

The minimal stigmatization of the juvenile offenders is also one of the main aims mentioned in the rules.<sup>97</sup>

The placement of alternate options for the juvenile justice could be done in the form of “community-based diversion”, which might avoid the commission of crimes again, specially by the first-time offenders.<sup>98</sup>

### **3.3. The Havana Rules<sup>99</sup>**

The most important aim of the Havana rules is the last resort to deprivation of the liberty of the

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<sup>92</sup> Beijing Rules, 1985, rule 17.

<sup>93</sup> Beijing Rules, 1985, rule 19.

<sup>94</sup> Cr.A. No.1045/2007.

<sup>95</sup> *Roper v. Simmons*, 543 U.S. 551 (2005).

<sup>96</sup> Vincent Wood, “Iran executed seven children last year, says UN as 90 remain on death row” *The Independent* Oct. 24, (2019).

<sup>97</sup> Beijing Rules, 1985, rules 8, 11.

<sup>98</sup> Beijing Rules, 1985, rule 11.4.

<sup>99</sup> United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, GA Res/45/113 (1990).

juvenile delinquent during any of the processes of trial (pre, post or during).<sup>100</sup> In doing so, they aim to address and mitigate the negative consequences that a person may face, if he is being deprived of his liberty. What we are basically mean to understand by this is that the individual delinquent is not at the liberty to leave the detention facilities, which could be in the form of educational or rehabilitation centers, as the case may be.<sup>101</sup>

In a nutshell, it can be said that the international law places great emphasis on the personal liberty of the juvenile delinquents, except of course in cases where there might be potential violent threats.

Other than that, the need of supervision has also been time and again underlined.<sup>102</sup>

This is done, in order to protect the young juveniles from the vituperative prison settings.<sup>103</sup>

Another major cause for concern for the juveniles in the prison setting, as studied by Professor Manfred Nowak<sup>104</sup> is their “recruitment” by the hardened criminals and gangs where they do the bidding for organized crime groups.<sup>105</sup>

### **3.4. The Riyadh Guidelines<sup>106</sup>**

The guidelines lay emphasis on the role of the society on the whole, to work in a collective effort for the prevention of juvenile delinquency, for the well-being of the young people, right from their formative years. The application of the guidelines aims to work in consonance with the UDHR,<sup>107</sup>

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<sup>100</sup> Havana Rules, 1990, rule 11(b).

<sup>101</sup> UNICEF (Regional Office for Europe and Central Asia), “Deprivation of Liberty of Children in Conflict with the Law in Europe and Central Asia”, November 2022.

<sup>102</sup> UNCRC, 1987, art. 37(b).

<sup>103</sup> PS Pinheiro, “Independent Expert for the United Nations Secretary General’s Study on Violence against Children”, World Report on Violence Against Children, Geneva, 2006; *see also*, UNICEF (Regional Office for Europe and Central Asia), “Deprivation of Liberty of Children in Conflict with the Law in Europe and Central Asia”, November 2022.

<sup>104</sup> UN OHCHR, “UN Human Rights Office welcomes selection of Manfred Nowak to lead new global study on the situation of children deprived of liberty” October 26<sup>th</sup>, 2016, *available at*: <https://www.ohchr.org/en/2016/10/un-human-rights-office-welcomes-selection-manfred-nowak-lead-new-global-study-situation?LangID=E&NewsID=20766>.

<sup>105</sup> United Nations Human Rights Office of the High Commissioner, “United Nations Global Study on Children Deprived of Liberty” UN GA/74/136 (2019).

<sup>106</sup> UN Human Rights Office of the High Commissioner, “United Nations Guidelines for the Prevention of Juvenile Delinquency” GA/Res/45/112 (1990).

<sup>107</sup> Universal Declaration of Human Rights, 1945.

ICCPR,<sup>108</sup> ICESCR,<sup>109</sup> the Beijing Rules<sup>110</sup> and other such instruments.

The guidelines have important and relevant provisions, with respect to the education<sup>111</sup>, family support<sup>112</sup>, drug awareness campaign and the role that mass media can play in this<sup>113</sup>, special care and assistance for juveniles who have been exposed to abuse of any kind<sup>114</sup>, and self-help by the youths by seeking their assistance in delinquency prevention policies.<sup>115</sup>

### **3.5. The Vienna guidelines<sup>116</sup>**

They are the guidelines, made with the view to work in consonance with the other juvenile related rules and guidelines, and looks after the effective implementation of these, and the Convention on the Rights of the Child.<sup>117</sup>

It can be said that these guidelines are an encapsulation of the other instruments, aforementioned and to reaffirm the role of the criminal justice system, governmental and non-governmental organisations in taking responsibility as well as accountability, when found such, for the security, privacy and well-being of the juvenile.<sup>118</sup>

They also lay emphasis on the family and community-based rehabilitation of the juveniles preferable to institutionalized setups.<sup>119</sup>

### **3.6. Other International Provisions:**

Other important international covenants such as the ICCPR<sup>120</sup> mention provisions for the protection of children.<sup>121</sup> ICESCR<sup>122</sup> also mentions in terms of children that they should be protected from economic exploitation. It lays down punishment and prohibition for underage

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<sup>108</sup> International Covenant on Civil and Political Rights, 1966.

<sup>109</sup> International Covenant on Economic, Social and Cultural Rights, 1976.

<sup>110</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice, GA Res 40/33 (1985).

<sup>111</sup> The Riyadh Guidelines, 1990, guidelines 20, 21, 22 *et. al.*

<sup>112</sup> *Id.* at guideline 12.

<sup>113</sup> *Id.* at guideline 44.

<sup>114</sup> *Id.* at guideline 46.

<sup>115</sup> The Riyadh Guidelines, 1990, guideline 9(h).

<sup>116</sup> UN OHCHR, "Guidelines for Action on Children in the Criminal Justice System" ECOSOC Res/1997/30 (1997).

<sup>117</sup> UN CRC, 1987.

<sup>118</sup> Vienna Guidelines, guidelines 24, 25.

<sup>119</sup> *Id.* at 46.

<sup>120</sup> International Covenant on Civil and Political Rights, 1966.

<sup>121</sup> ICCPR, art. 14,18(4), 23(4), 24.

<sup>122</sup> International Covenant on Economic, Social and Cultural Rights, 1976.

child labour<sup>123</sup>, which is an important provision because underage child labour may be linked to child trafficking and in turn, juvenile delinquency. This happens because the child who are employed at young age are devoid of opportunities of education and growth. This might lead them to resort to illegal and criminal activities for their sustenance.<sup>124</sup>

The ILO<sup>125</sup> lays down certain standards to be observed, which ensure that child labour (as per the international standards) is eliminated and prevented, and sets a certain minimum age for children to enter into employment.<sup>126</sup>

The other ILO convention which was also the first to achieve a universal ratification<sup>127</sup> also is of great significance as it highlights the elimination of worst forms of labours carried out by child at an urgent basis.<sup>128</sup>

## Chapter- Four

### Theories of Crime and Psychology vis-a-vis Juvenile Delinquency

Broadly, we have theories of crime to study the delinquency in juveniles. They help in gaining an understanding into what leads the children and juvenile towards delinquency. These theories also come a long way in the improvement of behavioural patterns of the juveniles. Some of these theories also are helpful in studying the adult offenders, as it is found that most of the delinquent behaviour is developed in the offenders during their formative years.<sup>129</sup> The theories of crime can be studied to understand the crime in its wider connotation.

The theories of crime can be studied by diverting them into two broad parts, where the first part comprises of four schools of thoughts, namely the Positive School, Classical School, Biological and Socio-Biological School.<sup>130</sup> The theories of crime concerning juvenile

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<sup>123</sup> ICESCR, art. 10(3).

<sup>124</sup> Geeta Kumari, "Child Labour as a Critical Precursor to Juvenile Delinquency" 13(6) *Intl. J. of Research in Social Sciences* (2023).

<sup>125</sup> International Labor Organisation, available at: <https://www.ilo.org/topics/child-labour#ils>

<sup>126</sup> ILO, Convention no. 138, "C138-Minimum Age Convention, 1973, art. 3" available at: [https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312283](https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312283).

<sup>127</sup> ILO, Convention no. 182.

<sup>128</sup> ILO, C-182, "Worst Forms of Child Labour Convention, 1999, Preamble" available at: [https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182).

<sup>129</sup> Ajay Ranga, Kavita, "Psychological and Theoretical Perspectives on Juvenile Delinquency" 14(2) *Indian Journal of Psychological Science* (2021).

<sup>130</sup> Ronald A. Akers, Christine S. Sellers, *Student Study Guide for: Criminological Theories: Introduction, Evaluation, Application* (OUP, New York, 6<sup>th</sup> edn., 2013).

delinquencies within these schools focus on different aspects of a juvenile which lead him to commit an illegal act and could be studied through the lens of Individualistic theories and Sociological Environmental theories of delinquency.<sup>131</sup> While the former postulates that there is a biological predisposition among some juveniles to commit a crime or to commit delinquent behaviour, the latter offers a more straight-forward explanation pertaining to the decisions made by the juveniles for committing a delinquent act.<sup>132</sup> The latter part includes two theories, namely: the Psychological and Sociological theories.<sup>133</sup>

Numerous psychological theories also come to be of help while understanding crime and delinquency, also among the juveniles. These theories help to underline the patterns and are credible in the view of psychologists. Historically the delinquency used to be explained through demonological or naturalistic theories.<sup>134</sup>

Later on, with the advancement of various disciplines, certain theories emerged on the lines of biological, anthropological, sociological and psychological aspects on these disciplines.

#### **4.1. Individualistic Theories of Criminal Behaviour:**

The father of classical criminology, Marchese Beccaria Cesare Bonesana was a proponent of the classical school of criminology during the 18<sup>th</sup> century, argued for free will and rational punishment and was a believer in maintaining the social contract and utilitarian government. As per him, an effective punishment should be clear and swift. He advocated a just and equal society based on individual rights. He also believed in penology reform.<sup>135</sup>

It was the theories of Beccaria that later inspired the forefathers of the positivist school of law, like Jeremy Bentham, to build on the theories of utilitarianism<sup>136</sup>, which essentially promulgated the idea that the pain of punishment for the crime should outweigh the pleasure

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<sup>131</sup> MP Baligar, *Supra* note.

<sup>132</sup> Kristin C. Thompson, Richard J. Morris, "Theories of Juvenile Delinquency" in *Juvenile Delinquency and Disability* (Springer International Publishing, Switzerland, 2016).

<sup>133</sup> Ashley Crossman, "Understanding Conflict Theories" July 24<sup>th</sup>, 2024, available at: <https://www.thoughtco.com/conflict-theory-3026622>.

<sup>134</sup> MP Baligar, "Juvenile Delinquency: Theories" 8(6) *Int. J. of Research in Engineering, IT and Social Sci.* (2018).

<sup>135</sup> Sophus Reinert, "Capitalism, Slavery and the Legacy of Cesare Beccaria" 22-034 *Harvard Business School Working Paper* (2022).

<sup>136</sup> Jeremy Bentham (eds. J.H. Burns, H.L.A. Hart), *An Introduction to the Principles of Morals and Legislation*, (OUP, 2005).

of committing it in the first place.<sup>137</sup>

#### 4.2. Bio-Psychological Theory

The theory postulates that a child is born with certain pre-disposition, which form his tendency to turn towards crime at early ages. Adolescence and desire to break free from dependency and supervision also play a part in turning the adolescents into delinquents. The behavioral tendencies that show deviation on parts of the juveniles, from the decisions that adult make on their behalf can also be termed as “delinquency”.<sup>138</sup> It is not in the hands of the humans to be born into the particular sociological and cultural environments, and that plays a major role in their growth or proclivity towards crime.<sup>139</sup>

The main proponents of this theory have been Darwin, whose theories of evolution<sup>140</sup> have has significant bearings on the theories of crime, based on bio-psychological tendencies of humans and youth.<sup>141</sup>

Cesare Lombroso, who was the founder of the anthropological school in criminology, had noted in his studies, that a lot of children who have delinquent tendencies are illegitimate/born out of wedlock, or were orphans. Adding to this, he also held education and upbringing of the children to be of great contributing factors on whether they turned to criminal acts.<sup>142</sup> However, on conducting further studies, he also found that certain criminal acts were also found to be done by children who were born into families with good “morals”, therefore he eventually concluded that most of the individuals are born with “innate perverse tendencies”.<sup>143</sup>

Gina-Lombroso-Ferrero, the daughter of Lombroso, furthering his work, opined that the delinquent acts committed by children and youngsters show their “underdeveloped” physical and psychological human tendencies.<sup>144</sup> She also suggests that youngsters are not familiar with

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<sup>137</sup> This theory of Bentham later gave way to theories such as the Rational Choice Theory; *see also*: Raymond Boudon, “Beyond Rational Choice Theory” 29(1) *Annual Rev. of Sociology* 2003.

<sup>138</sup> Miomira Kostić, “Biological and Psychological Theories on Juvenile Delinquency” 11(1) *Facta Univesitatis, Law and Politics* (2013).

<sup>139</sup> Miomira Kostić, *Ibid*.

<sup>140</sup> Danielle Boisvert, “Evolutionary Theory of Criminal Behaviour” in: G. Bruinsma, D. Weisburd (eds.) *Encyclopedia of Criminology and Criminal Justice* (Springer, New York, 2018).

<sup>141</sup> Miomira Kostić, *Ibid*.

<sup>142</sup> Cesare Lambroso, (Transl: Horton M.A, Henry P.) *Crime, Its Causes and Remedies* (W. Heinemann, London, 1911).

<sup>143</sup> Gina Lambroso-Ferrero, *Criminal an, according to the classification of Cesare Lambroso* (G.P Putnam, New York, London, 1911).

<sup>144</sup> Charles A. Ellwood, “Lambroso’s Theory of Crime” 2(5) *J. of Crim. Law and Criminology* (1912).

the abstract notions of justice and morality of right and wrong, and are quick to display impulse in the form of anger, revenge, and lack of affection for even the closest of their family.<sup>145</sup>

Another important proponent of this theory has been Paul B. Tappan.<sup>146</sup> Russian neurologist, Ivan Sechenov was also of the view that “free-choice” is nothing but “reflex movements in the strict sense of the term”.<sup>147</sup>

William H. Sheldon in his study linked human body structure correlating to the behaviour.<sup>148</sup>

This theory has been subject to its fair share of criticism as well, due to its reliance on “chromosomal anomaly”, which many argue is just one, lone factor which hasn’t even been analysed with the sufficiency it merits.<sup>149</sup> In a nutshell therefore, it can be said that the biopsychological factors that lead to propensity of crimes in children and juveniles cannot be studied in isolation due to the complexities it poses while overlapping with a whole another set of factors that could contribute to criminal tendencies.<sup>150</sup>

### **4.3. Individualistic and Sociological Environment Theories**

The three major individualistic theories of crime were given by Bandura, Freud and Eysenck, namely the social-learning theory, psychodynamic theory and the personality theory respectively.

Bandura carried out the famous “Bobo doll experiment” in 1963, to prove that the behaviour demonstrated by children is often a reflection of what they observe in the adults around them, or are exposed to through the pop-culture.<sup>151</sup> He also defined delinquency as an expression of aggression of the child.<sup>152</sup> However, this was countered by Cumberbatch by arguing that the children are more likely to copy the actions of their parents rather than those of random

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<sup>145</sup> *Ibid.*

<sup>146</sup> Paul B. Tappan, *Juvenile Delinquency* (McGraw Hill Book Company, New York, 1949).

<sup>147</sup> David Klinghoffer, “Crime and Punishment, and Darwin’s Theory” *Evolution News and Science Today* May 2, (2016).

<sup>148</sup> W.H. Sheldon, *Varieties of Delinquent Youth: An Introduction to Constitutional Psychiatry* (New York: Harper and Row, 1949).

<sup>149</sup> Miomira Kostić, “Biological and Psychological Theories on Juvenile Delinquency” 11(1) *Facta Univesitatis, Law and Politics* (2013).

<sup>150</sup> Miomira Kostić, *Ibid.*

<sup>151</sup> Albert Bandura, “Influence of Models’ Reinforcement Contingencies on The Acquisition of Imitative Responses” 1(6) *J. of Personality and Social Psychology* (1965).

<sup>152</sup> Ellina Samantroy, “Youth and Delinquency in India: A Sociological Study” Dissertation Submitted to Centre for The Study of Social Systems, *School of Social Sciences, Jawaharlal Nehru University* (2004).

strangers.<sup>153</sup>

Sigmund Freud gave the psychodynamic theory while dividing the human psyche (reflected by the limbic brain system) into “*Id, ego and superego*” each having its distinct characteristics, from being gratification-seeking, to rational and logical, and having a ‘conscience’.<sup>154</sup> Freud argued that criminality in humans would arise if they do not develop a psyche centered around the *Id* ego, to have a dominant personality, right from the childhood.<sup>155</sup> This theory has been concretised because there have been links found between adverse childhood of a person and his propensity to commit crime.<sup>156</sup>

However, this has also been criticized because it is argued by psychologists that the theory is devoid of subjectivity, and objectivity in it would lead to different results.<sup>157</sup>

Additionally, of significance here is also the “Bowlby theory of maternal deprivation”, suggesting serious consequences if the child is separated from the mother at an early age after the formation of a close bond.<sup>158</sup>

Thirdly, Eysenck gave the psychological theory which was based on collating the data of different personality types, which ranged on a scale based on extraversion vs. introversion, and neuroticism vs. stability.<sup>159</sup> The theory was further strengthened by the findings of DeYoung who also accepted the linkage between the personality traits based on the release of hormones in individuals.<sup>160</sup>

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<sup>153</sup> *Ibid.*

<sup>154</sup> William Siegfried, “The Formation and Structure of the Human Psyche: Id, Ego and Superego- The Dynamic (Libidinal) and Static Unconsciousness, Sublimation and the Social Dimension of Identity Formation” 2 *Athene Noctua: Undergraduate Philosophy Journal* (2014).

<sup>155</sup> *Ibid.*

<sup>156</sup> *Ibid.*

<sup>157</sup> Hans Eysenck himself has criticized the Freudian psychoanalysis theory, see also; Mehmet Levent Kayaalp, “Karl Popper and Psychoanalysis Reconsidered” 84 *Free Associations: Psychoanalysis and Culture, Media, Group, Politics* (2021).

<sup>158</sup> John Bowlby, “Maternal Care and Mental Health” *Report on behalf of the WHO as a contribution to the United Nations programme for the welfare of homeless children* (Geneva, 1952).

<sup>159</sup> “Eysenck: Dimensions of Personality” (chapter 18: part 2) in *Introduction to Theories of Personality* American Women’s College Psychology Department, available at: <https://open.baypath.edu/psy321book/chapter/c18p2/>.

<sup>160</sup> C.G. DeYoung, J.B. Hirsh, et. al. “Testing Predictions from Personality Neuroscience: Brain Structure and the Big Five” 21(6) *Psychological Science* (2010), see also; Colin G. DeYoung, Jeremy R. Gray “Personality Neuroscience: Explaining individual differences in affect, behaviour and cognition” *The Cambridge Handbook of Personality Psychology* pp.323-346 (2009).

All of these theories suggest that there are certain individual characteristics that lead the individual on the way of criminality.<sup>161</sup>

## Chapter- Five

### Way Forward- Rehab or Punishment?

Though there are mechanisms to punish the juvenile offenders in different jurisdictions through various legislations, the importance of rehabilitation over punishment has time and again being underlined by the juvenile justice system for quite some time now. The reason for this shift in the approach could well be attributed to the extensive research which has only gone on to prove the effectiveness of rehabilitation over the juveniles, due to their difference from the adult-hardened criminals, except in the most exceptional of cases.

Moreover, as is the case with juveniles, we, as a society are more concerned with getting rid of the recidivism among the juveniles and their proclivity to turn (again) to crime. This was crystallised by Pappas and Dent<sup>162</sup> in their meta-review by concluding that recidivism among the juveniles can be reduced with the help of intervention programs coupled with rehabilitative programs.<sup>163</sup>

This is also in consonance with the findings of Wilson and Hoge,<sup>164</sup> who also worked to shed light on whether diversion programs are of any help in helping reduce recidivism than the old-traditional approaches.<sup>165</sup> Doing this study, they found the integration of the juveniles, who are medium to high-risk, into the mainstream section of society easily through intervention programs, which are specially tailored to specific individuals.<sup>166</sup>

There have also been studies showcasing the role played psychologically by community-based programs, such as some horticultural programs, which help in promotion of self-development among the juvenile offenders.<sup>167</sup> It also goes on to show that these programs are also of great

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<sup>161</sup> *Ibid.*

<sup>162</sup> Laceé N. Pappas, Amy L. Dent, "The 40-year debate: a meta-review on what works for juvenile offenders" 19 *J. Exp. Criminol.* p.30 (2023), available at: <https://doi.org/10.1007/s11292-021-09472-z>.

<sup>163</sup> Laceé N. Pappas, Amy L. Dent, *Ibid.*

<sup>164</sup> Holly A. Wilson, Robert D. Hoge, "The Effect of Youth Diversion Programs on Recidivism" 40(5) *Criminal Justice and Behaviour* (2013).

<sup>165</sup> *Ibid.*

<sup>166</sup> *Ibid.*

<sup>167</sup> Carol Cammack, Tina M. Waliczeck *et. al.* "The Green Brigade: The Psychological Effects of a Community-based Horticulture Program on the Self-development Characteristics of Juvenile Offenders" 12(1) *Hort Technology* (2002).

help for the sustenance of the juveniles in the long-term which helps them seamlessly integrate into the mainstream society, when they do so.<sup>168</sup>

That education is of utmost important in any society, is an undeniable fact, one which cannot be overemphasized in case of juvenile rehabilitation.<sup>169</sup> The children are not punished in terms of imprisonment but are sent for counseling.<sup>170</sup>

This was also highlighted by Smeets<sup>171</sup> by asserting that educational opportunities if presented adequately within juvenile facilities, are cardinal in repressing the recidivism rates.<sup>172</sup>

Restorative justice approaches, which seek to examine the harmful impacts of a crime and holds the offender accountable by holding them responsible and repairing the harm.<sup>173</sup> First usage of the term “restorative justice” is attributed to psychologist Albert Eglash in his work.<sup>174</sup> The approaches have been gaining a lot of traction lately as they seek to repair the harm caused, rather than just having a punitive approach.

Various international declarations, such as the Vienna<sup>175</sup> and Bangkok declarations<sup>176</sup> have also highlighted the need for restorative justice approaches.<sup>177</sup> These processes entail victim-offender reconciliation, community service etc., which is thought to have an effect of “paying back” to the community at large by the offender.<sup>178</sup>

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<sup>168</sup> *Ibid.*

<sup>169</sup> Elizabeth R. Barnert, Raymond Perry *et. al.* “Incarcerated Youths’ Perspectives on Protective Factors and Risk Factors for Juvenile Offending: A Qualitative Analysis” 105(7) *Am. J. Pub. Health* (2015).

<sup>170</sup> Swati Vashishtha, “Exploring operation dynamics: A case study of juvenile justice boards under the juvenile justice care and protection act of 2015” 4(1) *Intl. J. of Law, Justice and Jurisprudence* (2024).

<sup>171</sup> Ed Smeets, “Education in young offender institutions and secure youth care institutions” 20(1) *Educational Research and Evaluation* (2013).

<sup>172</sup> *Ibid.*

<sup>173</sup> United Nations Office on Drugs and Crime, Vienna, “Handbook on restorative Justice Programmes” United Nations (New York, 2006).

<sup>174</sup> Albert Eglash, “Creative Restitution: Its Roots in Psychiatry, Religion and Law” 10(2) *The British Journal of Delinquency* (1959), available at: <http://www.jstor.org/stable/23640779>.

<sup>175</sup> “The Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-First Century” 10<sup>th</sup> UN Congress on the Prevention of Crime and Treatment of Offenders, Vienna, 10-17 Apr., 2000, A/CONF. 184/4/Rev. 3, para. 29.

<sup>176</sup> “The Bangkok Declaration—Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice”, 11<sup>th</sup> United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Bangkok, 18-25 Apr., 2005, para. 32.

<sup>177</sup> European Union Council Framework Decision, “The Standing of Victims in Criminal Proceedings”, Art. 10, Mar. 15, 2001.

<sup>178</sup> Debra-Heath Thornton, “Restorative Justice” *Encyclopedia Britannica*, June 10<sup>th</sup>, 2023, available at: <https://www.britannica.com/topic/restorative-justice>.

The restorative justice approaches are argued to facilitate a path of recovery, both for the victim and the offenders, paving a more supportive environment for rehabilitation.<sup>179</sup>

It can therefore be safely concluded that the focus of the juvenile justice system on rehabilitation, rather than punitive measures, as can be seen has been crystallised with relevant and repetitive researches, that indicate that if these programs are educationally and culturally relevant, they go a long way in addressing the pin-pointed cases of juvenile offenders, and can be proven to be significant factors in reducing recidivism among youth.

## Chapter- Six

### Conclusion

After studying the above laws, cases and theories, it can effectively be concluded that the juveniles who turn delinquent merit a significantly different treatment from that meted out to the adult criminals. As has evidently been seen, there could be multiple contributing factors which lead the juveniles on the path to crime, ranging from the innate qualities, familial upbringing, peer-pressure, exposure to drugs or abuses of other kinds at an early age, lack of education etc.

All these do a damage which, if mended at an early age can prevent an irreparable and chronic harm and help the delinquent youth to be a part of the mainstream society.

While we have an insight into what causes the youth to stray, through the various theories, and also have a fair idea of application of various theories of crime, and their application. We can therefore, use them to the advantage of the juvenile delinquents.

It will also be significant to mention here that instead of following the age-old punitive and prison system methods, newer methods of rehabilitation, restorative-justice and youth-counseling based on individual case, are much better equipped to provide the juvenile delinquents, with the “justice” that they deserve.

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<sup>179</sup> Ani Triwati, “The Best Interest of the Juvenile in the Diversion Agreement within Juvenile Criminal Justice System” *European Union Digital Library ICEHHA* (2021), available at: <https://eudl.eu/doi/10.4108/eai.3-6-2021.2310828>.