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## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **JUVENILE JURISDICTION REHABILITATION AND PUNISHMENT**

AUTHORED BY - ISHAAN CHAWLA

## **STATEMENT OF PROBLEM**

The statement of the problem within the domain of juvenile jurisdiction and rehabilitation, with a specific focus on child misdemeanors, highlights a pivotal crossroads in contemporary legal dialogue. Despite notable strides in the development of juvenile justice systems, a conspicuous gap persists in our comprehension of how to effectively tackle the distinctive challenges presented by child misdemeanors within the broader rehabilitative framework. The prevalence of these minor offenses prompts an essential inquiry into the suitability and efficacy of existing legal measures and rehabilitative interventions crafted for juvenile offenders. The present landscape of juvenile jurisdiction may fall short of adequately addressing the unique circumstances surrounding child misdemeanors, necessitating an in-depth exploration into the intricate factors contributing to the commission of these offenses by young individuals. This research endeavors not only to identify and comprehensively dissect these problems but also to provide nuanced insights into the deficiencies of the current system. Furthermore, it aspires to propose concrete avenues for improvement in rehabilitation processes, specifically tailored to address the complexities associated with child misdemeanors, thereby contributing to the refinement and enhancement of the juvenile justice system.

In an era marked by ongoing social and legal transformations, the discussion surrounding juvenile justice gains increased importance, necessitating a thorough exploration of the intricate dynamics inherent in juvenile jurisdiction and rehabilitation. With a specific focus on child misdemeanors, this research initiative aims to navigate the complexities shaping the juvenile justice landscape. As contemporary society grapples with evolving perspectives on youth offenders, there is a growing imperative to comprehend the multifaceted nature of juvenile jurisdiction. The prevalence of child misdemeanors not only emphasizes the urgent need for reassessing current legal frameworks but also prompts a closer examination of the effectiveness of rehabilitative measures tailored for young individuals involved in minor offenses. This research paper seeks to analyze and shed light on the unique challenges

presented by misdemeanors committed by juveniles, unraveling the intricate interplay of legal, psychological, and social factors. Through this exploration, our goal is to contribute to a more comprehensive and nuanced understanding of how the justice system can effectively address the needs of juvenile offenders, guiding them toward rehabilitation and fostering sustained positive engagement within society.

## RESEARCH OBJECTIVES

- **Examine Current Legal Frameworks:** Investigate existing juvenile jurisdiction laws and policies to understand their efficacy and limitations in addressing child misdemeanors. Analyze how these frameworks contribute to the rehabilitation or potential recidivism of young offenders.
- **Identify Factors Contributing to Child Misdemeanors:** Explore the underlying causes and circumstances that lead to child misdemeanors. Investigate social, economic, and psychological factors influencing juvenile delinquency to provide a holistic understanding of the root causes of these offenses.
- **Recommend Policy Reforms:** Propose evidence-based policy recommendations aimed at reforming juvenile jurisdiction and rehabilitation practices. Advocate for changes in legislation and policy that prioritize rehabilitation, restorative justice, and the overall well-being of juvenile offenders.
- **Propose Remedial Strategies:** Develop recommendations for innovative and effective remedies tailored specifically for child misdemeanors. Consider alternative rehabilitation approaches, diversion programs, and community-based initiatives that prioritize the individual needs and circumstances of juvenile offenders.
- **Contribute to Policy Discourse:** Publish findings in academic journals, present at conferences, and engage with policymakers to contribute to the ongoing discourse on juvenile jurisdiction and rehabilitation. Advocate for evidence-based policies that prioritize the rehabilitation and well-being of juvenile offenders involved in misdemeanors.
- **Assess Stakeholder Perspectives:** Collect and analyze the viewpoints of key stakeholders, including legal professionals, social workers, educators, and juveniles themselves, to understand their experiences and perspectives regarding the current juvenile justice and rehabilitation systems.

## **Chapterisation:**

### **I. Introduction**

Concept of Juvenile Justice, an introduction to the general theme of the research paper. The focus is on the concept of the Juvenile Justice System in India, focusing on the notions of rehabilitation and punishment and analyzing the complications that run around it.

### **II. Understanding Juvenility**

2.1 Definition of Juvenile And Juvenile Delinquency

2.2 Claim of Juvenility

2.3 Delinquency Theories

### **III. History Of Juvenile Jurisdiction**

3.1 The Children's Act of 1960

3.2 The Juvenile Justice Act of 1986

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3.4 The 2006 Amendment

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5.1 Hari Ram V. State Of Rajasthan & Another

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## **ABSTRACT**

As the saying goes, children are the future of nations, and they are one of a country's most valuable assets. However, because of immaturity, a lack of knowledge of the nature and consequences, poverty, psychological problems, and various other social and peer variables. In this paper, we will begin with juvenile <sup>1</sup>misdemeanors to gain a fundamental understanding of the reasons for the increasing trend of juvenile crime rates. We will then briefly discuss the juvenile justice system in India as well as the relevant international conventions.

Finally, we will provide proposals to improve rehabilitation approaches in the Indian Juvenile Justice System. To substantiate the assertions, the study will also make use of relevant case studies. Overall, the goal of this paper is to assess the existing state of the Indian Juvenile Justice System in terms of Rehabilitation techniques and if it needs to be developed further for comprehensive juvenile rehabilitation. As the Indian Juvenile System has concentrated on rehabilitation rather than punishment, the major driving goal of this paper will be to determine if such rehabilitation approaches are effective enough or whether revisions are required. We have issues everywhere, but we should not let them govern us; instead, we should become the captains of our problems and solve them.

## **I. INTRODUCTION**

The most crucial part of juvenile justice is whether to punish the juveniles or to provide for their rehabilitation. As we all know, the sentence of a person guilty of a criminal offense is primarily influenced by three essential considerations: retribution (penalty), restraint, and rehabilitation. In the case of juvenile offenders, the principle of rehabilitation is often assigned the greatest weight.<sup>23</sup> The juvenile delinquent rehabilitative model focuses on the counseling/guidance/treatment of the offender with the assumption that interventions such as probation supervision, work readiness, incarceration, training, cognitive skills training, and behavior therapy will change behavior and reduce the frequency of juvenile offenses.<sup>45</sup>

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### KEYWORDS

<sup>1</sup> Juvenile- involving young people who are not yet adults

<sup>2</sup> Piquero A, Steinberg L. Rehabilitation Versus Incarceration of Juvenile Offenders: Public Preferences in Four Models for Change States

<sup>3</sup> General principles of juvenile justice, welfare v/s justice models <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5288089/#R11> (available and visited on August 16,2024)

<sup>4</sup> Mr. Shubham Kumar Singh (LL.M), "Critical Analysis of Juvenile Justice System in India with Special Emphasis on Juvenile Delinquency & Rehabilitation Methodologies", Chanakya National Law University, Patna Available at [https://www.lawaudience.com/critical-analysis-of-juvenile-justice-system-in-india-with-special-emphasis-on-juvenile-delinquency-rehabilitation-methodologies/#google\\_vignette](https://www.lawaudience.com/critical-analysis-of-juvenile-justice-system-in-india-with-special-emphasis-on-juvenile-delinquency-rehabilitation-methodologies/#google_vignette) (last visited August 16, 2024)

<sup>5</sup> Juvenile crime juvenile justice chapter 5 – the juvenile justice system

In the Indian legal scenario, juvenile delinquents are not differentiated based on their crimes to be punished. The foundation of juvenile justice philosophy lies in the belief that children differ from adults, necessitating a distinct approach to the criminal justice system. It acknowledges that young individuals are in the process of emotional, intellectual, and social development, indicating that they might not grasp the full implications of their actions. The juvenile justice system falls under criminal law and is designed to serve the needs of juveniles who are under the age of 18 and cannot yet be held accountable for their crimes. Juvenile Justice Laws are in place in most of the developed countries to ensure that young offenders are treated fairly so that they can lead a life of peace, morality, and democracy. These laws apply to those under 18 years of age. Juvenile justice is conducted in child-friendly juvenile courts.

## II. UNDERSTANDING JUVENILITY

### 2.1 DEFINITION OF JUVENILE AND JUVENILE DELINQUENCY

The term "juvenile" has its roots in the Latin word "juvenis," signifying "young." Broadly defined, a "child" is an individual who has not attained the age of 18 and is deemed to lack the maturity necessary for a comprehensive comprehension of ethical distinctions. Numerous legal systems across various nations adhere to the doctrine of 'Doli Incapax<sup>6</sup>,' asserting that a child is incapable of forming criminal intent to perpetrate an offense. As per the provisions outlined in the Juvenile Justice Act of 2015, a "child" is specifically characterized as an individual below the age of 18. The legislation makes a clear distinction between children involved in legal conflicts and those requiring care and protection. On the other hand, a "juvenile" refers to a person who is below the age of 18 and has allegedly committed an offence. The Juvenile Justice Act recognizes that juveniles in conflict with the law require specialized care and protection, and therefore, they are dealt with through a separate juvenile justice system.

Other laws within the accordance of juvenile justice system define a 'child' in different ways, for example, the discontinued Indian Penal Code (IPC) defined a child as a person below the age of twelve years whereas the Pocso Act (protection of children from sexual offences) of 2012 defines a child as someone below the age of eighteen years. The Bharatiya Nyaya Sanhita Act of 2023 also defines a child to mean a person below the age of 18.

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<sup>6</sup> Defined under us department of justice

<https://www.ojp.gov/ncjrs/virtual-library/abstracts/doctrine-doli-incapax> (available and visited on August 16, 2024)

There is a key difference between the terms ‘child’ and ‘juvenile’, a person under eighteen is considered a minor, suggesting a reduced level of legal responsibility. If a child is accused of wrongdoing, they are not treated as an adult and are sent to a Child Care Centre.

On the flip side, a juvenile refers to someone aged sixteen to eighteen. If a person in this age group commits a crime, they're called a juvenile offender and might face trial as an adult in court.

The term "Juvenile Delinquency" lacks a precise definition. According to several sociologists, the legal definition of juvenile delinquency is deemed inadequate in capturing the true essence of the term. Grasping the identity of juvenile offenders, the reasons behind their criminal activities, and the occurrence of a child's arrest and conviction may hinge on diverse fortuitous circumstances<sup>78</sup>. The official introduction of the term "Juvenile Delinquent" took place in 1899 when Chicago, Illinois enacted its code on Juvenile Delinquency.<sup>9</sup>

## 2.2 CLAIM OF JUVENILITY

The “claim of juvenility” question is a highly debated issue among legal professionals and socialists. The determination of juvenility is the responsibility of the Juvenile Justice Board. When determining the juvenile status of an accused individual, it is advisable to avoid an overly technical approach. In evaluating the evidence presented on behalf of the accused to establish their juvenile status, if there are two plausible interpretations of the same evidence, the Court should incline toward considering the accused as juvenile, particularly in borderline cases. It's important to note that the inquiry should not be an unrestricted investigation. The Court has the discretion to consider evidence beyond mere affidavits, such as documents and certificates, as valid proof of age. However, several exceptions to this rule are made. For example, running medical tests in case of exploiting the loophole of fake documents or taking into consideration the heinousness of the crime committed. The need for a medical age determination test, specifically a bone ossification test, arises only when the documents or certificates presented by the accused to support their claim of juvenility are identified as falsified or tampered with. Now, we will start looking at the different delinquency theories to understand why juveniles

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<sup>7</sup> Mr. Shubham Kumar Singh (LL.M), “Critical Analysis of Juvenile Justice System in India with Special Emphasis on Juvenile Delinquency & Rehabilitation Methodologies”, Chanakya National Law University, Patna

<sup>8</sup> Laub, The onset of adult offending—a neglected dimension of the criminal career. *Journal of Criminal Justice*, p. 30, 2002

<sup>9</sup> S.M. Afzal Qadri, *Criminology, penology and victimology*, Eastern book Company, p. 78, 7th Edition, 2016.

may or may not be into these crimes. However, delinquent behavior is caused by various factors that no single theory can fully explain. Criminologists have picked the most useful ideas from different theories and put them together to understand crime and delinquency better. Now, let's look at three main theories on juvenile delinquency: the anomie theory, the subculture theory, and the differential opportunity theory.

### 2.3 DELINQUENCY THEORIES

- **ANOMIE THEORY**-Anomie theory for a crime was first developed by Robert Merton in the 1940s. The word 'anomie' comes from the Greek word 'anomos' which translates to lawless. Merton's theory explains that juvenile delinquency occurs because the juveniles do not have the means to make themselves happy. Due to their constrained perspective, individuals frequently perceive their objectives as unachievable, prompting a tendency to resort to illicit methods as a means of accomplishing their aspirations. Merton's anomie theory is predominantly utilitarian in nature: people act criminally because they lack alternative possibilities. In this context, Merton elucidates on financial offenses like robbery or burglary, excluding crimes of a more severe nature such as murder or rape. Due to the lack of access to legitimate means to achieve goals, Merton explains criminality only within the lower class, because it can be assumed that the middle and upper classes actually have these means at their disposal. Access to illegitimate means is not considered.<sup>1011</sup> According to Merton, there are 5 responses or ways that people follow in ordinance with anomie namely- Rebellion, Conformity, Innovation, Ritualism and Retreatism.
- **SUBCULTURE THEORY**- Subculture Theory, introduced by Albert Cohen in 1955, is a combination of several of his ideas. According to this theory, young individuals who don't conform to conventional social norms may seek acceptance within a subculture. This subculture consists of others who also deviate from societal standards. Together, these groups engage in behavior considered socially unacceptable, actively rebelling against the accepted norms. In simpler terms, Cohen sees juvenile delinquency as a result of societal influences. When juveniles commit crimes, like theft, it's because they are breaking a social rule, signaling their alignment with the values of their subculture. Subcultural theory is not an actual learning theory, but rather a hybrid of

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<sup>10</sup> Merton, R. K. (1938) Social Structure and Anomie. American Sociological Review, Vol. 3, No. 5 (Oct., 1938), S. 672-682

<sup>11</sup> Social structure and anomie, available at <http://www.jstor.org/stable/2084686> (last visited August 16, 2024)

learning, anomie, and other theories. Another special feature is that subculture theory only deals with juvenile delinquency, but not with criminal behaviour in general<sup>12</sup>. The theory is generally based on the principles of hedonism (momentary pleasure), malicious intent (the purpose is to annoy or even hurt people), versatility, and resistance. Cohen's subcultural theory highlights that criminals, from their perspective, don't see their actions as criminal. Instead, as part of subcultures, they follow behavioral standards that differ from mainstream societal values and norms. Therefore, their actions are seen as conforming within their own subculture, and thus acceptable to them.

**III. DIFFERENTIAL OPPORTUNITY THEORY**-Differential Opportunity Theory, formulated by Richard Cloward and Lloyd Ohlin in 1960, suggests that the availability of opportunities plays a crucial role in juvenile delinquency. According to Cloward and Ohlin, if young individuals had more chances for success, they would be less inclined to seek validation from subculture groups. Furthermore, the theory proposes that factors beyond social influences may contribute to a juvenile's delinquency. For instance, the theory suggests that a juvenile might excel in school but struggle to secure meaningful employment. This difficulty in finding gainful employment could lead the juvenile to engage in delinquent behavior, not solely due to social factors.<sup>13</sup> However, what remains a point of contention is that not every crime requires particular opportunities or specific illegal means to be committed. Acts of pure violence or kleptomaniac behavior, for instance, can occur anytime and anywhere. The fundamental idea of Cloward and Ohlin—that criminal acts are primarily responses to status and adaptation issues—remains open to debate.

#### **IV. HISTORY OF JUVENILE JURISDICTION**

In the contemporary era, there is a global movement advocating for the unique treatment of juvenile offenders, extending to developed nations such as the U.K. and the U.S.A. This movement emerged in the 18th century, marking a departure from the previous approach where juvenile offenders were treated similarly to adult criminals.

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<sup>12</sup> Subculture theory (Cohen) available at <https://soztheo.de/theories-of-crime/learning-subculture/subcultural-theory-cohen/?lang=en> (last visited August 16, 2024)

<sup>13</sup> Theory of differential opportunities (Cloward & Ohlin), available at <https://soztheo.de/theories-of-crime/learning-subculture/theory-of-differential-opportunities-cloward-ohlin/?lang=en> (last visited August 16, 2024)

#### 4.1 The Children's Act of 1960

Following India's independence, the constitution incorporated provisions within the Fundamental Rights and Directive Principles of State Policy aimed at safeguarding and fostering the well-being of children. In 1960, the Indian government enacted the Children Act, which explicitly prohibited the incarceration of children under any circumstances. Instead, it focused on offering care, welfare, training, education, maintenance, protection, and rehabilitation for children in need. The act, though only applicable in union territories, introduced a three-tier institution system where observation homes would suffice for the juveniles when court proceedings were being held, a children's home for the neglected kids, and a special disciplinary school for delinquent children<sup>14</sup>.

#### 4.2 The Juvenile Justice Act of 1986

The Juvenile Justice Act of 1986, which replaced the preceding Children Act of 1960, sought to implement the principles outlined in the Standard Minimum Rules for the Administration of Juvenile Justice adopted by United Nations member countries in November 1985. The objectives of the act were to lay down a uniform framework of juvenile justice throughout the country in a way where the rights and protection of juveniles are taken care of. It addresses the apparatus and physical facilities necessary for the care, protection, treatment, development, and rehabilitation of juvenile offenders along with a special focus on establishing fundamental provisions for the just and equitable administration of criminal justice in cases involving serious offenses committed by juvenile offenders.<sup>15</sup>

#### 4.3 The Juvenile Justice (care and protection) Act of 2000

The act offers a distinctive approach towards the prevention and addressing of juvenile delinquency, outlining a framework for the safeguarding, treatment, and rehabilitation of children within the juvenile justice system. Aligned with the Child Rights Convention, this law replaced the preceding Juvenile Justice Act of 1986 and underwent subsequent amendments in 2006 and 2010. The act defines "Juvenile" or "child" as a person who has not completed 18 years of age.<sup>16</sup> In this act, a juvenile in conflict with

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<sup>14</sup> juvenile law in India available at <https://www.lawyered.in/legal-disrupt/articles/history-juvenile-justice-system-india/> (last visited August 16, 2024)

<sup>15</sup> The Juvenile Justices Act, 1986- Explanation in Brief available at <https://thelawmatics.in/the-juvenile-justices-act-1986-explanation-in-brief/> (last visited August 16, 2024)

<sup>16</sup> Section 2(k) of Juvenile Justice (Care and Protection of Children) Act 2000.

the law has been defined as a juvenile who is alleged to have committed an offence and has not completed the eighteenth year of age as on the date of commission of such offence<sup>17</sup>.

### 3.4 The 2006 Amendment

The 2006 Amendment further added a subsection that states that regardless of any conflicting provisions in existing laws, this Act shall be applicable to all instances involving the detention, prosecution, imposition of penalties, or sentencing of juveniles who are in conflict with the law under any such other legislation.<sup>18</sup> Other salient features like adoption and claim of juvenility were added to the Act through this amendment.

### 3.5 The 2010 Amendment

The 2010 amendment further dealt with important topics of ailments such as leprosy, sexually transmitted diseases, Hepatitis B, Tuberculosis, or children with unsound minds. The Bill eliminates a provision from the existing Act that mandated separate treatment for juveniles with certain health conditions. Additionally, it replaces a clause granting competent authorities the power to transfer children with specific conditions to specialized facilities. Under the Bill, authorities can only move mentally ill or substance-addicted children if their condition results in behavioral changes, allowing removal to a psychiatric hospital or nursing home. If transferred to a psychiatric facility, the competent authority can subsequently move the child to an Integrated Rehabilitation Centre based on the discharge certificate from the psychiatric facility.<sup>19</sup>

### 3.6 The Juvenile Justice Act, 2015

The Juvenile Justice Act of 2015 replaced the Juvenile Justice Act of 2000 to establish a more robust and effective justice system. This revamped system aimed to incorporate both preventive and rehabilitative measures. Recognizing the unique needs of juveniles in comparison to adults, discussions in Parliament emphasized the importance of providing juveniles with a distinct space for transformation and improvement. The consensus was that a specialized justice system was crucial to giving juveniles the chance for positive change. Consequently, the new law, the Juvenile Justice (Care and Protection of Children) Act, 2015, was formulated with a clear focus on a juvenile-friendly approach to handling cases, aligning with the overarching goal of fostering the

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<sup>17</sup> Section 2(l) of Juvenile Justice (Care and Protection of Children) Act 2000.

<sup>18</sup> Sub section 1(ii)(4) of juvenile justice (care and protection of children) Act 2000 (amended in 2006)

<sup>19</sup> The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010. Available at <https://prsindia.org/billtrack/the-juvenile-justice-care-and-protection-of-children-amendment-bill-2010> (last visited August 16, 2024)

positive transformation of young offenders. Under the preceding legislation, regardless of the nature of the offense, minors were subject to a maximum sentence of only three years. They were explicitly protected from being tried in adult courts, incarcerated in adult jails, or receiving penalties exceeding the three-year limit. However, a transformative shift occurred with the 2015 amendment. A new principle emerged, ensuring uniform treatment for all individuals below the age of 18, with a singular exception. In cases involving heinous crimes, minors falling within the 16 to 18 age group who stand accused could now face trial as adults.<sup>20</sup> This alteration represented a nuanced departure from the established norm, introducing a targeted approach to address the gravity of certain offenses committed by juveniles. This was after the infamous 'Gang rape case of 2012' where one out of the 6 rapists found guilty was a minor (less than 18 years of age).

The legislation also brought about the creation of specialized Juvenile courts designed specifically for addressing offenses involving juveniles. Moreover, it broadened the criteria defining a "Child in Need of Care and Protection." This encompasses instances where the child's caregivers are deemed unsuitable or disinterested in fulfilling their responsibilities, when the child is involved in labor contravening labor laws, or when there is a potential risk of early marriage before reaching the legally stipulated age.

## **V. THE POSITIVES AND NEGATIVES OF THE JUVENILE JUSTICE ACT OF 2015**

### **4.1 POSITIVES:**

The 2015 Juvenile Justice Act (JJA) brought about significant positive changes aimed at addressing deficiencies in the previous legislation and improving the overall juvenile justice system. Some of the important benefits of this Act include:

- The clear distinction between children in conflict with the law and children in need of protection and care is a crucial aspect of the legal framework surrounding juvenile justice. By recognizing and delineating these two categories, the legal system can tailor its approach to better address the specific needs and circumstances of each group.
- The mandatory registration of all children's homes represents a significant step towards transparency and efficiency in the system. This requirement ensures that these facilities are accountable, meet prescribed standards, and are subject to regular scrutiny. It helps

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<sup>20</sup> The juvenile justice (care and protection of children) act of 2015

safeguard the well-being of children by providing a mechanism for monitoring the conditions and quality of care in such institutions.

- The focus on reducing crimes committed by children between the ages of 16 and 18 acknowledges the importance of preventive measures and rehabilitation for this age group. By addressing the root causes of juvenile delinquency and implementing targeted interventions, the legal system aims to steer young individuals away from a path of criminal behavior.
- The provision allowing 16 to 18-year-olds to be tried as adults in the case of heinous crimes is a contentious but often debated aspect of juvenile justice. On one hand, it recognizes the severity of certain offenses and the need for accountability. On the other hand, it raises concerns about the age-appropriateness of adult legal proceedings for individuals in this age group. Striking the right balance between accountability and rehabilitation remains a challenge, and it requires careful consideration of the individual circumstances and the nature of the offenses involved.

In providing justice to the victims of heinous crimes, this provision seeks to address concerns about the perceived leniency of the juvenile justice system in cases where serious harm has been inflicted. However, it is essential to ensure that the legal process remains fair and respects the rights of the accused, even when considering the gravity of the offenses.

#### 4.2 NEGATIVES:

The modified Juvenile Justice Act (JJA) exhibits certain drawbacks that warrant attention and consideration. Herein, we delve into a discussion of some of the challenges and issues inherent in the legislation, shedding light on aspects that may require further examination and potential refinement.

1. Numerous psychological studies emphasize the susceptibility of individuals in the 16 to 18 age group due to hormonal and physical changes. Treating offenses committed within this age range as criminal acts and placing these individuals in adult prisons may exacerbate harm. Within such environments, minors may interact closely with seasoned criminals, potentially impeding their rehabilitation process.
2. A psychological evaluation is required to determine whether a minor should be treated as an adult, but it is a subjective process and lacks complete scientific objectivity. The rationale behind categorizing 16 to 18-year-old minors separately was derived from

information provided by the National Crime Records Bureau (NCRB). However, numerous critiques question the reliability of this data, highlighting concerns about the accuracy of the information, particularly since many cases were still in the First Information Report (FIR) stage and undergoing preliminary proceedings.

3. Critics assert that the legislation is overly lenient toward juveniles in conflict with the law and advocate for more severe penalties for those who engage in serious criminal activities. Additionally, there are reservations regarding the execution of the Act, with some contending that the government has not allocated sufficient resources to ensure its effective implementation.

## V. LANDMARK CASES CONCERNING JUVENILE DELINQUENCY

**5.1 HARI RAM V. STATE OF RAJASTHAN & ANOTHER:** Hari Ram faced multiple criminal charges, and a dispute arose regarding his age at the time of the offense, which would determine whether he would be tried as a juvenile or an adult. The Juvenile Justice Act of 1986 defines a juvenile as a boy under 16 or a girl under 18, while the Juvenile Justice (Care and Protection of Children) Act of 2000 extends the juvenile age limit to 18 for both boys and girls. The High Court, after considering testimony from Mr. Ram's father and medical reports, concluded that he was over 16 at the time of the offense, excluding him from the juvenile justice system. Mr. Ram appealed, contending that the Court's technical approach to determining his age undermined the rehabilitative purpose of juvenile justice laws. Additionally, he highlighted that the 2000 Act had raised the age limit for treating male children in conflict with the law as juveniles from 16 to 18 years.

The judgment was ruled in the favour of the petitioner Hari Ram, The Court, upon careful consideration, acceded to the appeal, thereby reversing the earlier decision of the High Court. Through its scrutiny, the Court established that during both the commission of the offense and the enactment of the 2000 Act, Hari Ram was below the age of 18. As a result of this determination, the stipulations outlined in the 2000 Act were deemed applicable in his case, resulting in his formal classification as a 'juvenile' under the legal framework.<sup>21</sup>

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<sup>21</sup> *Hari Ram vs. State of Rajasthan (2009) SCC 907.*

**5.2 THE STATE OF JAMMU KASHMIR VS SHUBAM SANGRA:** Shubam Sangra, one of the eight individuals implicated in the Kathua gang rape case involving the juvenile victim Asifa Bano, is confronted with multiple criminal charges, including rape and murder. Despite his endeavors to present forged documents, the Central Bureau of Investigation (CBI) has thoroughly probed the matter, leaving Shubam with no success in providing fake documentation. Shubam's attempt to falsify his age and be treated as a juvenile was thwarted when the Supreme Court of India decreed that he should be tried as an adult. Among the other seven accused, one has been acquitted, while three are sentenced to life imprisonment, and the remaining three face rigorous imprisonment for five years. This verdict was pronounced by the trial court on June 10, 2019.

The Supreme Court's ruling explicitly directs that Shubam be regarded as an adult due to the failure of his attempts to submit fraudulent documents. Following the hearing, it was established that Shubam's age falls between 19 and 23 years.<sup>22</sup> Consequently, Shubam is now undergoing trial as an adult. This landmark decision by the Supreme Court sets a significant precedent in addressing claims of juvenility.

**5.3 JITENDRA SINGH @ BABBOO SINGH VS. STATE OF U.P:** This case involves a dowry death where a woman was killed and burned by three individuals, including her husband and father-in-law. While the legal proceedings were ongoing, the father-in-law passed away. During the appeal in the Supreme Court, one of the accused asserted that he was a minor, specifically 14 years old, at the time of the offense. The Supreme Court affirmed the lower court's decision to convict the accused but noted that he falls within the juvenile category as defined by the Juvenile Justice Act, of 2000. To determine the appropriate sentence, the case was referred to the Juvenile Justice Board under the Act. The Court emphasized that the objective of the criminal justice system in such cases is to provide rehabilitative and restorative measures for juveniles.

The Court, upon reviewing the trial court and High Court's findings, affirmed their decision to convict and sentence the Appellant. However, it determined that the Appellant qualified as a juvenile or child under Section 2(k) of the Juvenile Justice Act 2000. Regarding the sentencing of a juvenile convict, the Court acknowledged differing

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<sup>22</sup> *The state of Jammu and Kashmir and others (now UT of Jammu and Kashmir) vs. Shubam Sangra (2022) SCC 11220*

opinions. After examining various cases, it adhered to the precedent set in Ashwani Kumar Saxena vs. State of MP 2012 (9) SCC 750. This precedent asserted that if a juvenile is found guilty based on the merits of the case, they should not escape punishment. Nevertheless, the determination of the sentence should be entrusted to a Juvenile Justice Board, as mandated by Section 20 of the Juvenile Justice Act 2000.<sup>23</sup>

**5.4 SHER SINGH @ SHERU VS. STATE OF U.P:** In this case, the appellant, who was convicted of kidnapping, invoked the plea of juvenility, asserting that his High School Examination (Matriculation) Record indicated he was below 18 years of age at the time of the offense. He claimed entitlement to the benefits outlined in the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Juvenile Justice (Care and Protection of Children) Rules, 2007. The Juvenile Justice Board dismissed this plea based on a medical report stating his age as 19 years during the commission of the crime. After four years, the appellant filed another plea to be declared a juvenile in the Session trial, but this request was also rejected and dismissed. Consequently, this order became final.

The court's ruling underscores the importance of honoring the decision reached by the juvenile justice system, deeming it as conclusive. Yet, the judgment explicitly clarifies that this acknowledgment does not eliminate the right to appeal to the court. This emphasis on the right to appeal underscores the commitment to ensuring fairness and due process in the legal proceedings. The court aims to strike a balance, affirming the finality of the juvenile justice determination while also recognizing the fundamental right to seek recourse through the appellate process. This approach is designed to prevent unnecessary prolongation of the legal proceedings, promoting a judicious and timely resolution of the matter.<sup>24</sup>

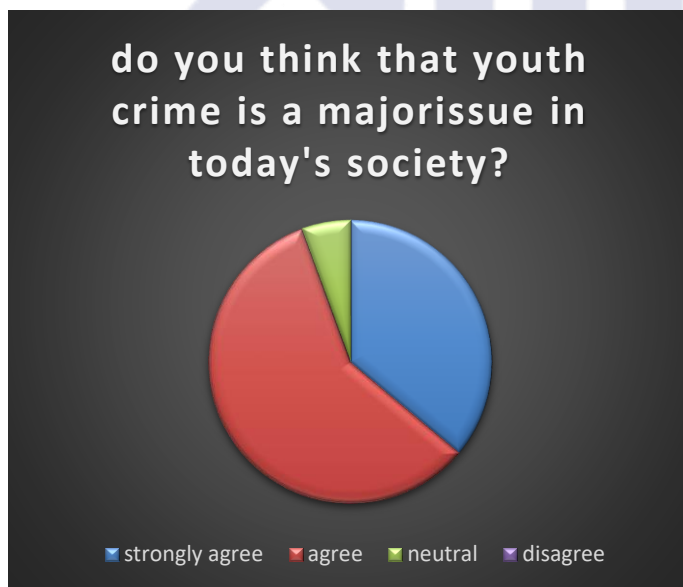
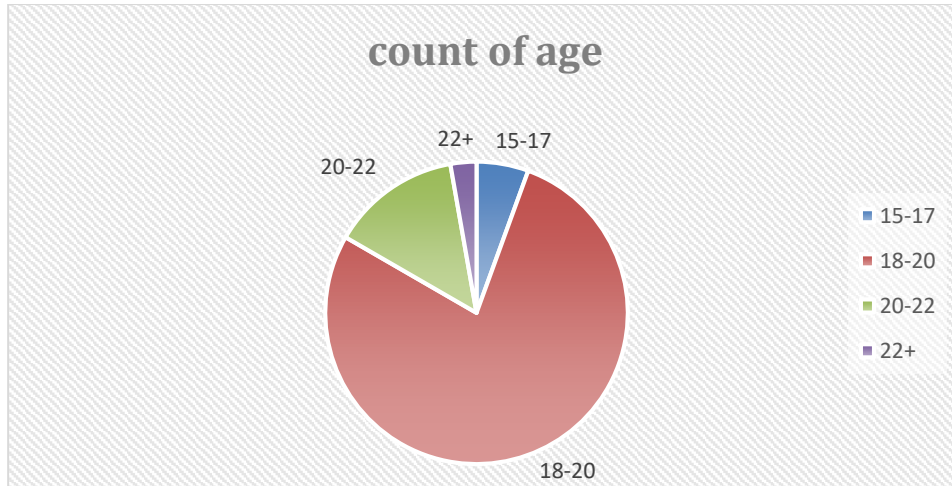
## VI. PUBLIC OPINION AND SURVEY

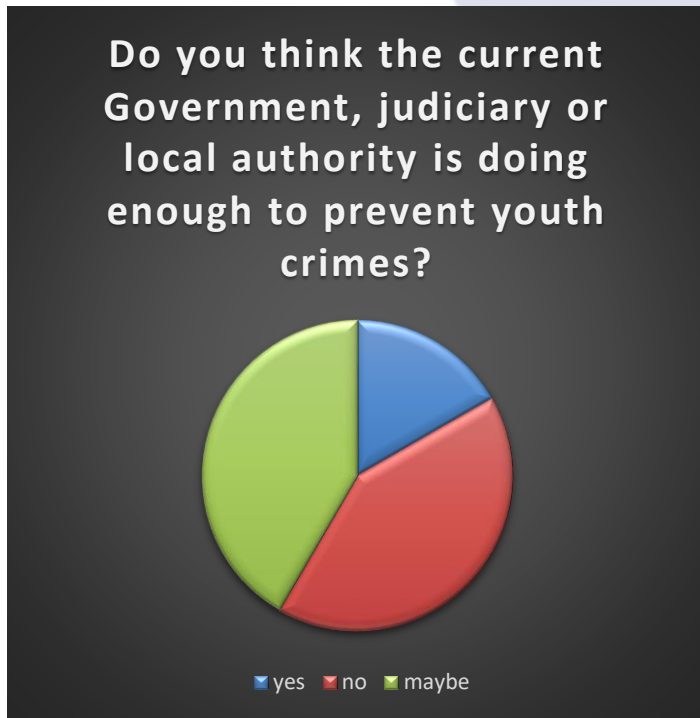
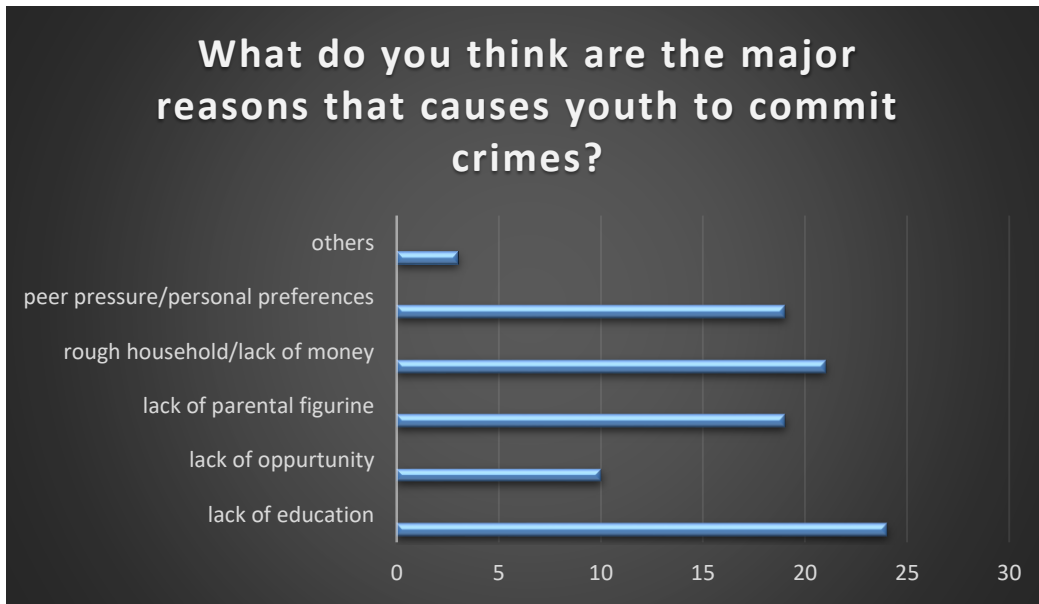
Let us embark on an exploration of the public's viewpoints regarding juvenile delinquency and the accompanying rehabilitation process. This exploration was facilitated through a comprehensive survey spanning various age groups, aiming to capture diverse perspectives on child misdemeanors and discern the root causes behind such behavior. Following this, we will

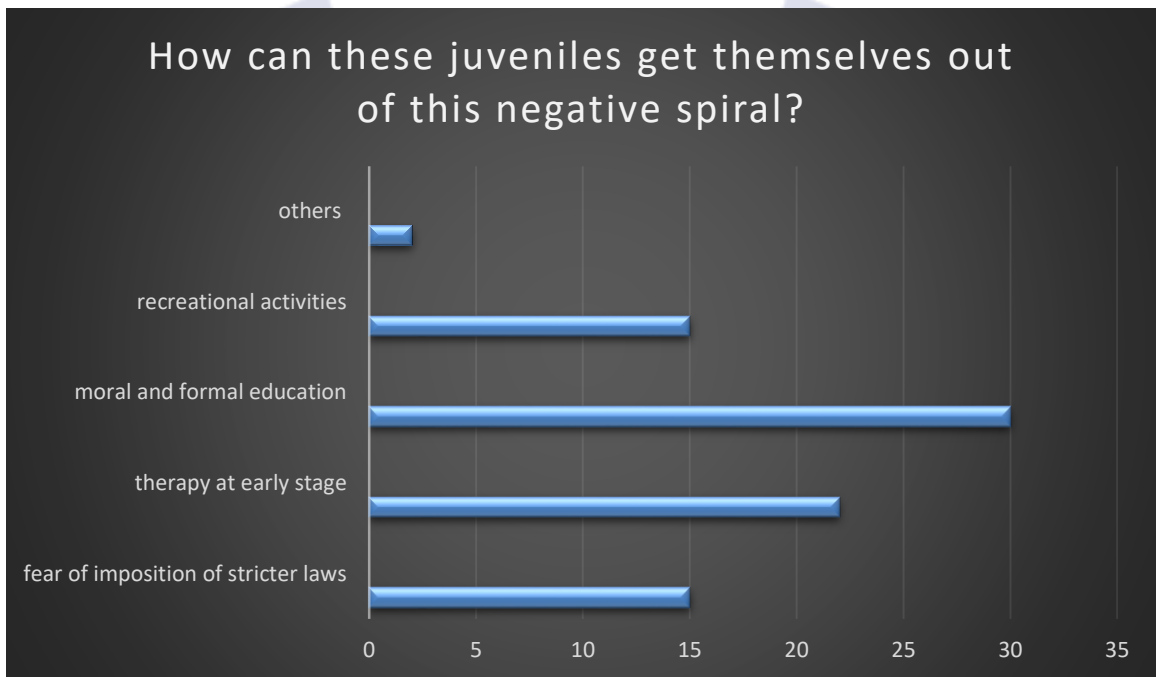
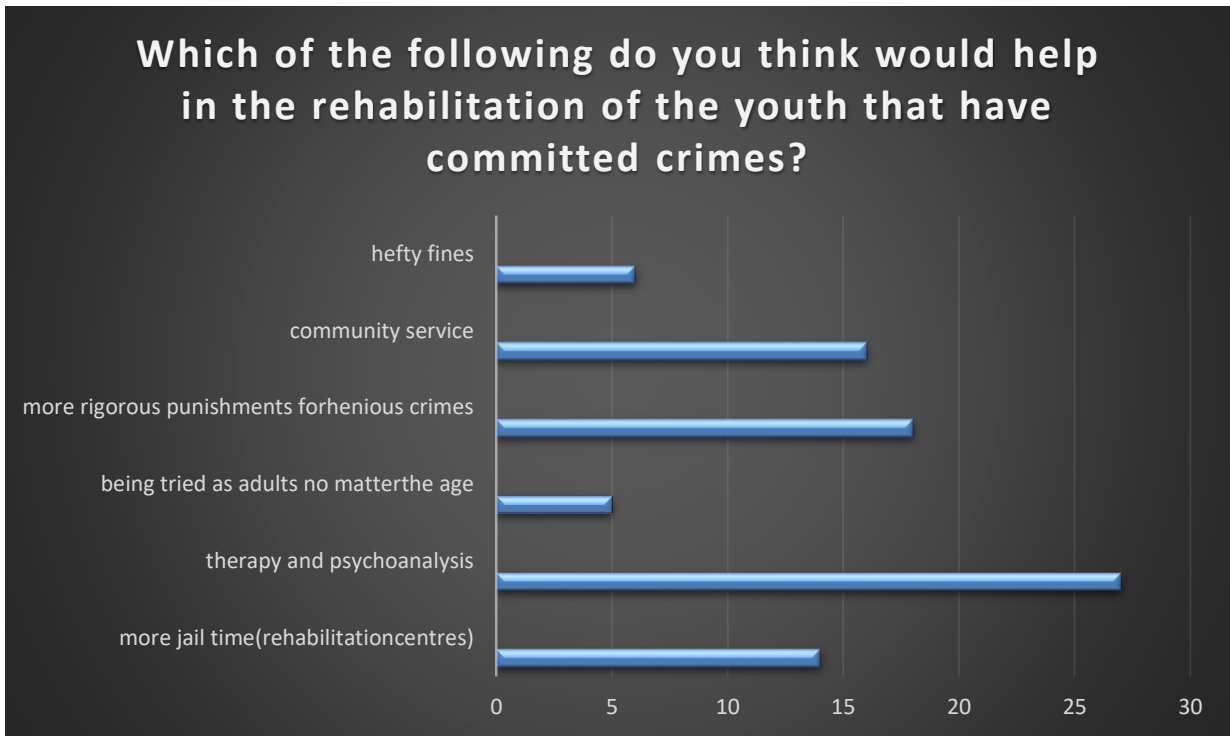
<sup>23</sup> *Jitendra Singh @ Babboo Singh vs. State of U.P (2013) SCC 763*

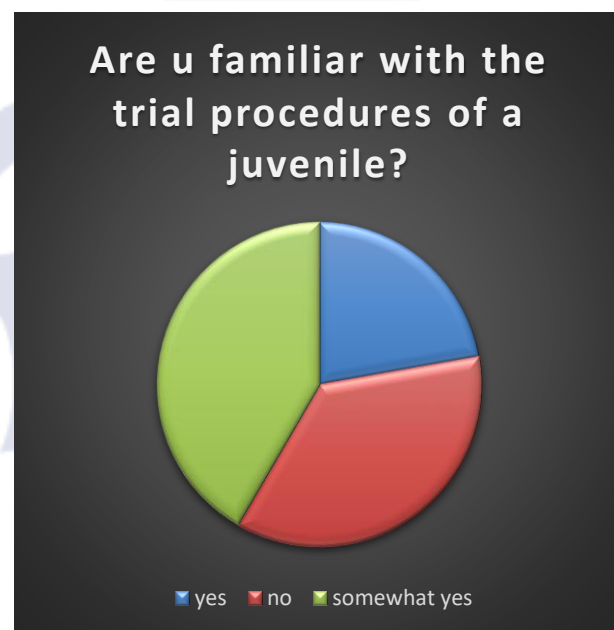
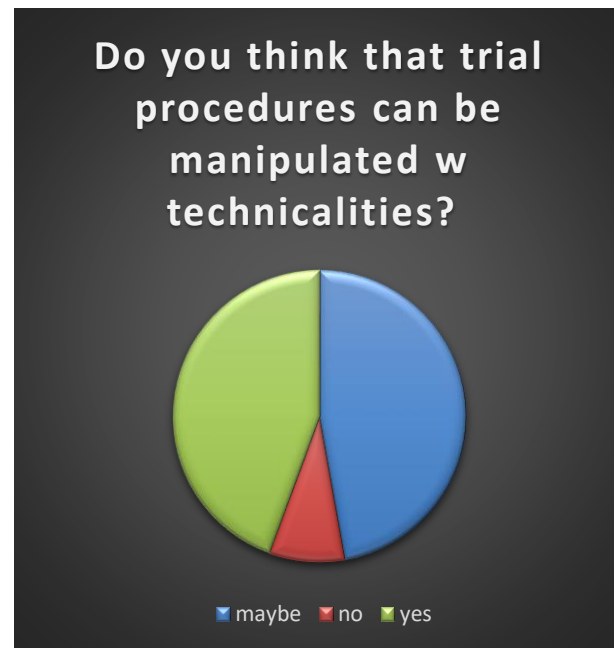
<sup>24</sup> *Sher Singh @ Sheru vs. State of U.P (2016) Allahabad High Court 1883*

meticulously scrutinize the survey results, delving into an extensive and nuanced discussion to elucidate the insights gleaned from the data. A total of 36 responses were recorded where people across different age groups answered the questions put up to them let us analyze the data in the form of charts below-









RESULTS- The analysis of the charts reveals a prevailing perception among most individuals that child misdemeanors pose a definite threat to society and its overall upbringing. Additionally, a noteworthy inclination towards factors associated with the anomie theory is evident when respondents were queried about the reasons behind these crimes. While some express the view that government efforts are insufficient, a substantial portion either lacks awareness or expresses compliance with existing government policies. There is a prevalent sentiment of sympathy towards juveniles, with a preference for a pragmatic approach involving early-stage therapy and comprehensive moral and formal education. Despite this, respondents also acknowledge that the imposition of stricter laws and more severe punishments could instill

fear in the minds of potential delinquents. In summarizing these responses, it becomes apparent that a multifaceted approach is necessary to address juvenile delinquency, encompassing both rehabilitative measures and a deterrent factor through legal consequences.

## VII. PERSONAL OPINION AND REFORMATION

The structure of juvenile jurisdiction in India warrants continuous examination and reform to address inherent deficiencies that undermine its intended objectives. While the Juvenile Justice (Care and Protection of Children) Act provides a framework aimed at the rehabilitation and reintegration of young offenders, numerous loopholes exist within this system, allowing for potential misuse and exploitation. The current protocols for assessing mental age are frequently inadequate. Psychological evaluations are not consistently applied, resulting in significant discrepancies in the treatment of juvenile offenders. Bridging this gap necessitates the implementation of standardized procedures for mental health assessments, ensuring that each individual's psychological maturity is carefully evaluated and considered in legal contexts.

Additionally, ambiguities within the legal framework can be exploited. Provisions designed to “save” young offenders can sometimes be manipulated, enabling those with more severe behavioral issues to evade appropriate accountability. To counteract this, it is essential to establish clearer guidelines and provide training for law enforcement and judicial personnel, thereby mitigating the risk of misuse. This includes defining exploitative behaviors and articulating the corresponding legal consequences to uphold the integrity of the juvenile justice system.

Lastly, there is a pressing need for ongoing engagement with various stakeholders, including child psychologists, educators, and social workers. Such collaboration can foster a more informed and empathetic approach to juvenile justice reform. A comprehensive strategy should prioritize not only punitive measures but also supportive interventions that address the underlying causes of juvenile delinquency, including socio-economic factors, familial challenges, and mental health issues.

Moreover, important reformation may include some of the following factors-

- **Standard Mental Health Checks:** Use clear, consistent procedures for mental age assessments.
- **Clear Legal Guidelines:** Define rules to close loopholes and clarify consequences.

- **Training for Law Enforcement:** Train police and judges on juvenile rights and handling cases.
- **Involve Stakeholders:** Collaborate with psychologists, teachers, and social workers.
- **Ongoing Review:** Regularly assess the system's effectiveness and make necessary changes

## VIII. CONCLUSION

The objective of the Juvenile Justice System is to offer specialized care and safeguarding for young offenders, recognizing that children are not fully developed like adults and may not grasp the complete nature and repercussions of their actions. The system prioritizes the reformation and rehabilitation of juvenile offenders over punitive measures, taking into account the best interests of the child. Certainly, within our legal framework, we find a comprehensive set of laws, rules, and regulations designed to articulate and facilitate effective rehabilitation methods. However, upon careful examination of the practical application, a discernible gap emerges, indicating a deficiency in the successful implementation of the model laws and legislations at our disposal. This shortfall raises critical questions about the actualization of the intended rehabilitative measures and points towards the need for a more robust and efficient enforcement mechanism to bridge the gap between theory and practice in our legal system.

Efficient scrutiny of the proper follow-up and record-keeping for juveniles on probation is lacking. With the surge in new-generation crimes like cybercrimes, predominantly involving young offenders, it is imperative to update and modify Indian Juvenile Rehabilitation Practices to enhance their effectiveness.

While the judiciary has notably established precedents by dismissing claims of juvenility designed to exploit legal technicalities, cases such as the 2012 Nirbhaya incident continue to cast a shadow over the collective consciousness of society. In this tragic episode, a juvenile perpetrator inflicted significant harm and evaded appropriate consequences due to the absence of a provision allowing for the accountability of his actions. It is strongly recommended that the Juvenile Justice Act adopts a more pragmatic approach, consistently incorporating additional rules and regulations. The well-known adage "precaution is better than cure" is particularly relevant when advocating for ongoing modifications and periodic reviews of the act to ensure its sustained pertinence and efficacy in addressing evolving challenges.