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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Mrs.S.Kalpna

Assistant professor of Law

Mrs.S.Kalpna, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



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 JUSTICE IN INDIA: **JUDICIAL TRENDS**

AUTHORED BY – ABHISHEK BENJWAL

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DR. HEMANGINI SHARMA

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ABSTRACT:

A child is the bedrock which holds the future of a nation. Children are the incomparable resources of a country. They lead the nation, generate national prosperity, care for and ensure the safety of the community to which they belong to. The development and welfare of any region relies generally upon the wellbeing and prosperity of the children living in it. Truly said that “who holds the souls of children hold the nation”. Mental and social wellbeing of country is brought mainly through the way where it is drafted in the primary phase. As per Justice Krishna Ayer “Winston Churchill said, ‘there is no finer investment for any community than putting milk into babies.’ This deep appeal to the people everywhere, this fundamental faith in juvenile justice, this recognition of the worth of the infants born and unborn is the beginning of juvenile justice”. According to Hirschi and Gottfredson (1983)- “Crime has a very strong relationship with the age as age-crime relationship is universal”. Substantially, it has been observed that delinquency or criminality is the most in adolescence and lowers down with age. On the other hand, the changing social attitudes towards criminality by children have been a matter of concern for which a child friendly juvenile justice system has been provided. Offences against children and juvenile offence has become an independent issue. It is indeed a good beginning for creating awareness about the rights relating to children.¹

KEY WORDS: Child, Juvenile, Judicial, Delinquency, Justice, Crime.

OBJECTIVES OF THE STUDY

1. To show the legal aspects of the juvenile justice in India.
2. To know the Social Profile of the Juveniles in conflict with law in Country and to examine the reasons with regard to individual and Socio-economic factors responsible for the deviant behavior of Children in conflict with law.
3. To study the historical Background of juvenile justice system.
4. To analyze judicial trends in respect of juvenile justice in India.
5. To suggest measures for better implementation of the Act and Schemes.

¹ Dr. Yogender, Juvenile Delinquency system in india: an Appraisal, Academic views & reviews, vol.no.6 (No. ii & iii)
July – December, 2016

RESEARCH METHODOLOGY

The study is mainly doctrinal. The doctrinal analysis is based on both primary and secondary evidence that was acquired from a variety of sources, including law journals, books, newspapers, and other websites. The decisions of the Supreme Court and the High Courts were examined.

Information and data were gathered from the official website of the national crime bureau of India in order to have a thorough understanding of the mechanism of the justice delivery system with regard to the juveniles who are in conflict with the law.

LITERATURE REVIEW

In literature review, some studies on the research are shown to find out research gap to pursue this study. The place, time and environment are closely associated with crime. A historical view is vital to a proper understanding of modern problem. In this research different patterns and trends of juvenile crime, studied by various sociologists and criminologists all over the world.

HYPOTHESES

1. The socio-economic conditions are a cause for increase in juvenile crimes.
2. Improper implementation of government schemes meant for people below poverty line is accelerating juvenile crimes.
3. Lacunas in the procedures followed by different institutions of the system are a cause for ineffective implementation of the juvenile system.

SCHEME OF THE STUDY

Chapter I: Introduction

Chapter II: Historical Background Chapter III: Legislative Policies in India Chapter IV: Role of Judiciary

Chapter V: Conclusion and Suggestions

CHAPTER 1 INTRODUCTION

1.1 INTRODUCTION

Children in India constitute nearly forty percentage population and are considered as a national asset. They are born innocence and helpless and need proper care, protection and nourishment so they can have a fruitful life and become a useful member of a society. Future of any nation depends on a welfare and well-being of its children thus state is obliged by their duty provide them all basic rights and protect them from all evil exploitation. In national and international level various enactments, conventions, recommendations, declaration, policies have been made for the welfare of children, and Judiciary has also been playing a pivotal role to protect the children. In spite that for centuries, children have been neglected, abused and exploited to a great extent and they are being victims of various offences. There is no specific and separate classification of offences as offences against children. Generally the offences committed against them or the crimes against children. On the other hands, the changing social attitudes towards criminality by children have been a matter of concern for which a child friendly juvenile justice system has been provided. Offences against children and juvenile offence has become an independent issue. It is indeed a good beginning for creating awareness about the rights relating to children.²

The number of crimes committed by minors under the age of 16 has increased over the past few decades. The child's rearing environment, the economy, illiteracy, and parental care may all be contributing factors to the rising crime rate. These are some of the fundamental explanations.

The heinous incident of "Nirbhaya India Gang Rape", on the shocking events of December 16, 2012 stunned the entire country and sparked numerous discussions among the legal community and socialists. The involvement of the accused, who was only six months away from being 18 years old, was the main topic of discussion. The accused's involvement in such a horrific rape crime compelled the Indian government to adopt a new law, and as a result, the Indian Parliament passed the Juvenile Justice (Care and Protection), 2015.

This new act has brought the remarkable changes one of them is juvenile under the age group of 16 to 18 years should be tried as an adult.

² *Ibid.*

1.2 DEFINITION OF CHILD AND JUVENILE UNDER THE JUVENILE JUSTICE ACT, 2015

A "child" is typically defined as someone under the age of 18 who lacks the maturity to discern between right and wrong. In the modern era, the 'doli incapex' notion has been incorporated into most nations' penal codes which indicate knowing the action they are taking is unlawful. The penal of India states that only children between the ages of seven and twelve may be found guilty, provided that the offence they committed qualifies as heinous crime and they are knowledgeable and have reached the necessary level of knowledge to comprehend the effects of their actions. According to section 2(12) of The Juvenile (care and protection) Act, 2015 a "child" means a person who has not attained the age of eighteen years of age. The Act segregates the term "child" into two categories:-

"Child in conflict with law"³, and "Child in need of care and protection"⁴

When a child commits a crime and is under the age of 18 on the day the crime was committed, they are generally referred to as "child in conflict with law". The second category is "child in need of care and protection" means a child as defined under section of 14 of The Juvenile Justice (Care and Protection of Children Act), 2015.

United Nations Convention : – The UN Convention on the Rights of Child, 1989 defines that "child" means a human being below the age of eighteen years unless the law declaration applicable to child , majority is attained earlier.⁵

1.3 DISSIMILARITY BETWEEN JUVENILE AND CHILD

A minor is a person who is under the legal age of eighteen or who is under the age of full legal obligation and responsibility. A child facing charges of a crime is transferred to a child care center instead of being tried as an adult. Whereas a juvenile is someone who is between the ages of 16 and 18. A young person suspected of committing a crime is considered a juvenile offender and is tried in adult court. Although both terms generally have the same meaning, there are some differences lies in the context of potential legal repercussions. The word minor implies young and teen person whereas juvenile indicates immature person or young offenders.

³ Section 13 of The Juvenile Justice (Care and Protection of Children) Act, 2015

⁴ Section 14 of The Juvenile Justice (Care and Protection of Children) Act, 2015

⁵ Article 1 of the UN Convention on the Rights of Child, 1989.

1.4 INTERNATIONAL CONCERNS FOR JUVENILE

The General Assembly of the United Nations adopted the Convention on the Rights of the Child on 20th November, 1989 which establishes a series of rules that must be followed by all States parties in order to protect the best interests of child. The development of children has traditionally received more attention from international organisations like the United Nations and UNICEF.

The following list includes the international agreements and conventions that all of the States of the UN have signed to safeguard children's rights.

1. UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)
2. UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)
3. UN Rules for the Protection of Juvenile Deprived of their Liberty (Havana Conventions)
4. Guidelines for the Action on Children in Criminal Juvenile System (Vienna Guidelines)

1.5 JUVENILE JUSTICE ACT, 2000

The Act was passed in the year 2000 with the purpose of protecting children. The aforementioned was amended twice: once in 2006 and again in 2011. The amendment was designed to solve the implementation's gap and loopholes. Additionally, the rise in juvenile crime cases over the past recently and a terrifying incident of "India Gang Rape Case" has forced the law makers to come up with the law. The act was replaced soon by The Juvenile Justice (Care and Protection) Act, 2015.

1.6 JUVENILE JUSTICE ACT, 2015

It seeks to harmonize the laws pertaining to children who are allegedly and really conflict with law and children in need of care and protection by catering and considering their basic needs through proper care & protection, development, treatment, social-integration, by adopting a child friendly approach in the adjudication and disposal of matters in the best interest of children. The act also emphasizes the rehabilitation of juvenile offenders through various institutions and daycare centers.

1.7 JUVENILE JUSTICE BOARD

For the purposes of investigation and hearing there shall be a board for the, issues involving juvenile in conflict with law. The Board shall have Principal Magistrate and two Social Worker, among them one must be woman. According to the Act, the Board is not permitted to govern or conduct business

from conventional court locations. The decisions taken by the Principal Magistrate is final

The Act also provided the procedure against the juvenile offender. Some of the special procedures are as following-

1. A police or citizen-filed complaint cannot be the basis for the proceedings to begin.
2. The hearing must be unofficial and completely private.
3. After detention, the offenders should be held in an observation home
4. The trial of juvenile in conflict with law shall be conducted by Lady Magistrate.
5. A child in conflict with law may be produced before an individual member of the Board, when Board is not sitting.⁶

1.8 JUVENILE JUSTICE AND CONSTITUTION OF INDIA

The Indian Constitution is regarded as the country's foundational law. Citizens have rights and obligations under the constitution. Additionally, it makes provisions for the operation of government apparatus. The Directive Principles of State Policies (DPSP), which serve as broadguides in forming governmental policies, are offered for people in Part III of the Constitution, just as they are in Part IV. A few fundamental rights and provisions, particularly for the welfare of children, are granted by the constitution. Like:-

1. Right to free and compulsory elementary education for all the children under the age of 6 to 14 years. (Article 21A)
2. Right to be protected from any hazardous employment under the age of fourteen age. (Article 24)
3. Right to be protected from being abused in any form by an adult. (Article 39(e)).
4. Right to be protected from human trafficking and forced bonded labour system. (Article 39)
5. Right to be provided with good nutrition and proper standard of living. (Article 47)
6. Article 15(3) of the Constitution of India provides special powers to State to make any special laws for the upliftment and the betterment of children and women.

⁶ Section 7(2) Of the Juvenile Justice (Care and Protection) Act, 2015

In order to ensure that children's rights are safeguarded in every manner possible, the Juvenile Act of 2015 took into account all required measures outlined by the Constitution. This is related to the fact that Chapter IV of the Act focuses on reforming and rehabilitating juveniles under all situations and lays forth mechanisms for their betterment.

1.8.1 CRIMINAL JUSTICE (REFORMATIVE OR PUNITIVE) AND JUVENILE

According to the Indian Legislative System, juvenile justice is defined by a legal framework. Juvenile delinquency is receiving preferential care and protection from the system. A crime committed by a youth under the age of 18 is considered juvenile delinquency. Everyone is aware of the rising number of juvenile offenses that is currently raising the contentious topic of age determination. The accused's age is one of the most crucial factors in assessing his or her degree of maturity. The topic of whether a juvenile may be prosecuted as an adult or not is being raised by the rising crime rate. No juvenile offender who meets the definition of "child in conflict with the law" as stated in subsection 13 of Section 2 of the Act shall not be tried as an adult and shall instead be sent to a child care center or other rehabilitation facility (until the offender reaches the age of 21 at which point he or she may be transferred to a jail or prison).

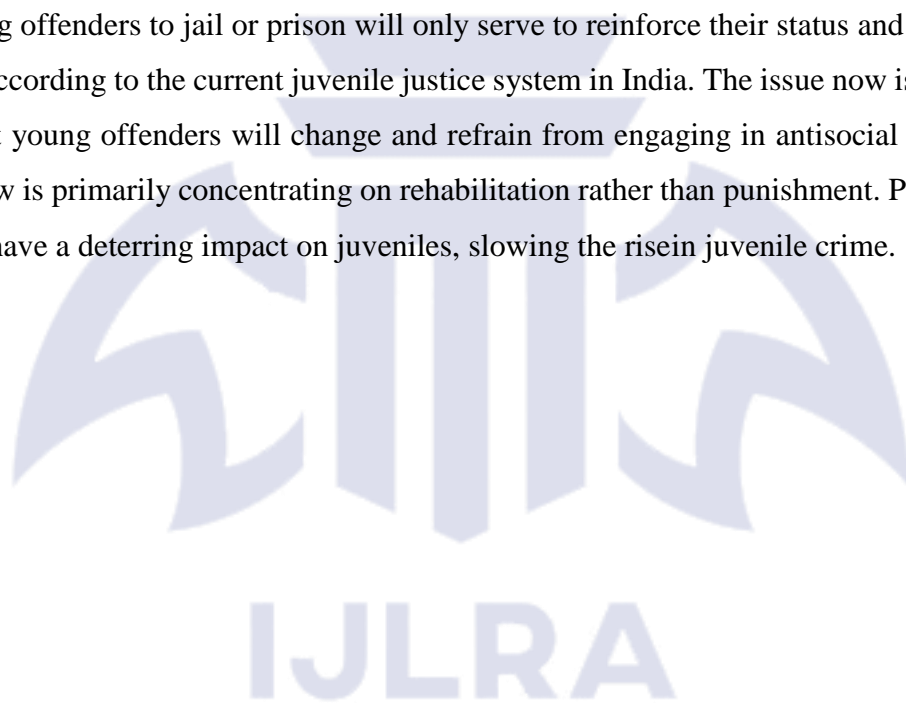
As a result, the current juvenile law in India views age determination as being crucial to determining whether the criminal is covered by the Juvenile Justice Act.

According to the Act, the maximum sentence that may be imposed on juvenile offenders is three years, and this sentence is applicable even in cases of heinous crimes. The maximum sentence that may be imposed on an adult criminal is seven years in jail, life in prison, or the death penalty. However, the law, when applied to young criminals, favors reformation wherever feasible. Sending juveniles to rehabilitation centers, juvenile schools, or requiring them to participate in various programs run by the government or non-governmental organizations (NGO) are examples of the reformation kind of punishment under the Act. In the current situation, it is unnecessary to impose such a little penalty for a terrible and severe offense only based on the offender's age. Rape is rape; one cannot escape using the excuses of age, mental unfitness, or incapacity.⁷

⁷ Galting, F.P., Aggression among delinquents and non-delinquency: A review. *British Journal of Criminology*, 12(2), 1972.

Therefore, the rule that is now in place under the guise of age determination or age consent is not having a deterrent impact on minors engaging in anti-social activity. In the guise of rehabilitation, juvenile criminals feel that committing heinous crimes is of little consequence since they will receive little to no punishment. Adopting a reformative paradigm of punishment is unfairly enabling young offenders to continue committing crimes without suffering severe repercussions. However, reformation is not always positive. If the goal of the legislation is to rehabilitate young offenders so they can live better lives in the future, it should also address the victim's rights. The victim must receive justice. While the principle of reformation aids in juvenile reform, it does not at all aid the victim.

Sending young offenders to jail or prison will only serve to reinforce their status and sense of self as "criminals," according to the current juvenile justice system in India. The issue now is that there is no assurance that young offenders will change and refrain from engaging in antisocial behavior in the future. The law is primarily concentrating on rehabilitation rather than punishment. Penalization will undoubtedly have a deterring impact on juveniles, slowing the rise in juvenile crime.



CHAPTER II

HISTORICAL BACKGROUND OF JUVENILE JUSTICE

2.1 ORIGIN AND HISTORICAL VIEWS OF JUVENILE JUSTICE

The concept of "juvenile rights" may be a terribly new historical concept within the context of government-imposed law and order. In the modern US, children are protected by the Constitution in a great deal the same way that adults are when facing serious accusations. For instance, a young woman was found dead in her home in 1993 after being severely overextended and stabbed. The murder took place in Cook County, Illinois. Associate in Nursing was noted in court files for a young, recent child. A tribunal judge who was deciding on a charge of degree murder attempted to predict his temperament and found him to be credible. A.M. received a sentence of just five years of probation since he was eligible as a juvenile. Despite the fact that this punishment shows leniency for such a horrible crime, A.M. was given release when a habeas corpus petition was filed in his favor.⁸ The underlying theory behind this complaint was that the police failed to protect A.M.'s right against incrimination since they didn't read him his Miranda rights until after the deceitful party had agreed to administer physical punishment. As soon as he acknowledged, the court ruled that AM had been "under care" and was therefore entitled to Miranda Protections.

Juvenile Justice was only included in the more comprehensive criminal justice plan, and severe penalties were required for juvenile offenders in order to preserve the current social structure. Juvenile offenders were treated no differently than young criminals since there was no difference made between misbehavior and criminality. While certain distant historical examples of crude child-focused systems of justice exist, most civilizations simply deal juvenile criminals in the same way as law-breaking adults. The same sanctions were meted out to juveniles and adults equally, even in communities that recognized children as having a unique status. What we now refer to as juvenile justice first started to emerge outside of Associate in Nursing adult criminal Justice framework a few millennia into human civilisation. Therefore, the idea of encouraging a certain kind of justice prevaricator among children and teens may represent a new step in the evolution of civilization and the administration of justice.

⁸ Sec A.M. vs Jeery Ruttier, 360 F.3d 787 (7th Cir. 2004)

2.1.1 JUVENILES IN EARLY HISTORY

Societies in prehistoric times were social group and tradition-bound, with simple management principles that were used to preserve cluster cohesiveness, foster order, and chastise wrongdoers. Once ruling hierarchies were established, the notion of retribution became the central feature of justice. In addition to other types of punishments like confinement and exile, under this idea, victims were permitted to exact revenge against attackers and other transgressors. These management norms weren't "laws" intrinsically in the same sense as electronic equipment judicial codes, but they did produce codes of conduct for members of the cluster. Many different electronic equipment civilizations still regularly engage in acts of vengeance; for instance, the United States has embraced the "just deserts" and "retribution" concepts of criminal punishment.

2.2 JUVENILE JUSTICE SYSTEM

The reforms of the late 19th and early 20th centuries therefore produced norms and institutions that persisted far into the fashionable era.

A new philosophy: The Progressive era

The progressive movement was active in the early twentieth century and focused on governmental reform and private philanthropy. They belonged to wealthy classes and educated cities that the United Nations sought out in order to lessen the challenges of industrial exploitation and poverty. Examples of changes from the progressive period include:

1. Social work systems
2. Conservation
3. Federal government policy and guideline within the personal phase
4. Establishment of the first Juvenile courts
5. Diversion of child out of formal criminal procedures

It should be noted that the progressive movement had a partially selfish sense of responsibility. Progressive undoubtedly gave of their time and resources in a good way, but they also realized that if they couldn't ease the burden on the poor and average workers, it may lead to resistance and societal change. Therefore, changes were encouraged in part to protect the elites' power base, safeguard their

privileges, and perpetuate segregation.⁹

2.3 INTERNATIONAL INSTRUMENTS

The United Nations' concern for the safety and physical and mental well-being of the juvenile United Nations agency section unit stems from its concern that, through Nation mediation, they may be prevented from affirming their opportunity. These are typically young people who are either "at social risk" or who have made up their minds to kill mammoths. As the last cabin for whatever is thought to be the least important time scattering, the hardship of their risk is revealed. The likelihood of hardship is influenced or will be influenced by the views and restrictions that will allow them to reach their full potential as members of society, as well as by the conditions and circumstances that will ensure respect for the juveniles' human rights and their ability to engage in necessary activities that will advance and maintain their physical and fiery thriving and sense of pride.

The following are the common tools that have a local impact and are crucial to the possibility of juvenile regard union:

1. The United Nations customary Minimum Rules and Juvenile esteem Administration (The Beijing Rules) general party goals, 40/33 of twenty ninth November, 1985.
2. The United Nations Rules for the Protection of Juvenile bereft of their Liberty (grasped to the UN General Assembly of the Eighth United Nations Congress on the bar of Crime and also the Treatment of Offenders, Havana, twenty seventh August to seventh Sept. 1990).
3. The United Nations customary Minimum Rules for Juvenile Justice Administration (The Beijing Rules) General Assembly Resolution, 40/33 of twenty ninth November, 1985.
4. The United Nations Rules for the Protection of Juvenile bereft of their Liberty (grasped to the UN General Assembly of the Eighth United Nations Congress on the bar of Crime and also the Treatment of Offenders, Havana. twenty seventh August to seventh Sept, 1990).
5. The United Nations customary Minimum Rules for Juvenile Justice Administration (The Beijing Rules) General Assembly Resolution, 40/33 of nineteenth November, 1985.

⁹ For a discussion of social tension during this era, see. Fink.L. (Edn.) 2001. Major Problems in the Gilded Age and the Progressive Era: Documents and essays (2nd Ed.) Boston: Houthon Miffin.

6. The United Nations Rules for the Protection of Juvenile bereft of their Liberty (grasped to the UN General Assembly of the Eighth United Nations Congress on the bar of Crime and also the Treatment of Offenders, Havana. twenty seventh August to seventh Sept, 1990).
7. The United Nations customary Minimum.. Models for Juvenile Justice Administration(The Beijing Rules) General Assembly Resolution, 40/33 of twenty ninth November, 1985.
8. The United Nations Rules for the Protection of Juvenile bereft of their Liberty (grasped to the UN General Assembly of the Eighth United Nations Congress on the bar of Crime and also the Treatment of Offenders, Havana, twenty seventh August to seventh Sept, 1990).
9. The United Nations pointers for the bar of Delinquency (the national capital Guidelines)(grasped by the Eighth UN Congress command at Cuban capital in 1990).
10. The United Nations customary Minimum Rules for Non-custodial Measures (The Tokyo Rules) (grasped by the Eighth UN congress Cuban capital, 1990).
11. The Declaration of the Rights of the Child (the General Assembly Resolution, 1886 (XIV of November twenty, 1959).
12. The Convention on the Rights of the Child (the General Assembly Resolution 44/25 of November twenty.1989).

2.4 HISTORICAL DEVELOPMENT OF JUVENILE JUSTICE IN INDIA

Here, the relevant, conclusive, or distinct achievement updates have been used to separate the credible context of juvenile justice in India into five periods, including

- (a) Period upto 1773;(b) 1773-1850;
- (c) 1850-1918;
- (d) 1919-1950; and
- (e) Post-1950.

The Regulation Act of 1773 gave the East Indies Company the power to enact laws and enforce them on a very massive scale, which is unquestionably what caused a major disruption in the Indian judicial system in the year 1773. The Charter Act of 1833 transformed the East Indies Company into a powerful organization.

2.4.1 Period up to 1773

Both Hindu and Muslim law have strategies for maintaining children. Child's identity was as a family and watchman. Charity Muslim law requires a private organization to find a specific youth to need its charge, on the off chance that he has reason to believe that it'd by somehow or other. The essential pledge to lift for the prospect of poor and desolate has been a legal justification under both Hindu and Muslim laws, and indirectly duty-bound the chance of children if there should be an incident of family failure to try and do everything.

2.4.2 Period of 1773-1850

The transition of the East Indies Company from an exchanging Union to Associate in Nursing supervising organization began in the years between 1773 and 1850, and it was followed by the introduction of the quality endorsements with regard to Childs. The excellence in detention operational settings, from locations to transport convicts to places to maintain convicts, was also shown during this time, in response to ideas flowing from the Nation and within plans of the geographic region boundary. According to T.B. Historiographer, the first group of trustees Lord William Bentinck appointed to oversee jail discipline submitted their report in 1839. It bravely learned of the prison Union's existing frustrations at the time. Different forms of stress were felt for Childs' welfare. In 1787, avatar Chandra Ghoshal and Jai Narain Ghoshl requested from LordPeer, the Indian governor-general at the time, the establishment of a "house" for despondent children near Kolkata.

2.4.3 Period of 1850-1919

During this time, several institutions were set up to address a wide range of child-related issues. The Female Infanticide Act of 1870 and the Vaccination Act of 1880 were likely to have a positive impact on children's lives and success; the Guardianship and Wards Act of 1890 established procedures to ensure their care and safety. The Factories Act of 1881 recognized the close proximity of child labor as well as the need for unique procedures for them.

2.4.4 Period of 1919-1950

The Report of Indian Jail Committee 1919-20 is one of the most important fundamental developments in the original context of the juvenile value framework in India. It made a comprehensive effort to redesign the entire functional working system while traveling to clean prisons and reform schools

both domestically and overseas. The System for Children Act had been in effect in Madras since 1917 and received official approval in June 1920. The Committee's one-zero-five suggestion also sparked the approval of comparable foundations by other countries. Balkan-ji-bari, who had its headquarters in Mumbai, may have been the first Childs' Union to be established in 1920; however, during that same year, various investigations were initiated by trailblazers like Gijubhai, who founded the Nutan Bal Shikshan Sangh in Gujarat and its geographic region as well as the Society of Service, which went on to found five Child Welfare Unions throughout the South. The Mumbai Youth Aid Society was founded in 1927 to collect homeless descendants from those streets and place them in personal care. The Moni Mela Parijat was established in the region, the Kishor Dekaliter in the country, which continues to support illustrious organizations and develop educational institution Childs' programs, the Maima Parijat in Assam, and the Balnand Sangam in the state. Numerous modest centers that didn't result in any obvious progress but took care of some of the pressing issues involving Childs in State, Kanpur, and Dehradun were an indication of the open perception to know techniques that enhanced the life and inspiration of Childs.

2.4.5 PERIOD OF POST-1950

Since 1950, much official and unofficial advancement have contributed to the advancement of juvenile motivation. A few systems that have contributed to the advancement of thinking and welfare measures for youngsters throughout this Period are consolidated in the running with the advancement Section together with those that are certified.

2.4.6 -1 5 YEAR PLANS

The 5 Year Plans were launched in 1951 with the establishment of the drafting commission, and Child Procedures were developed under these Procedures even if the use of Unions under Juvenile Empowerment has not been a special head of usage within the 5 Year Plans. Use of the Nation and everything else surrounding Acts with regard to abandoned and troubled children has remained with the Nations¹⁰. In agreement with these plans, a legislative body secretary stated: "Since India has a clear communist objective, the welfare of the family is the only valid justification for money-related movement." Additionally, the child is the primary payer in the household. In order to strengthen the nation as a whole, India focused on providing fundamental necessities for young children.

¹⁰ Kaldate, S.V., Juvenile delinquency in developing countries, Indian Journal of Criminology, 6 (2), 1978, 100.

Chapter III

LEGISLATIVE POLICES IN INDIA

3.1.Introduction

Additionally, the child is the primary payer in the household. In order to strengthen the nation as a whole, India focused on providing fundamental necessities for young children. We tend to get to know such juveniles during this process and then provide them with treatment. To stop juveniles from abusing the law, there is a need for individual, group, and completely various tiered activities. Additionally, it tends to be accomplished by financial development, practiced preparation programs, and directives that are steps to prevent the juvenile from taking part in illegal and criminal activities. In order to effectively implement the Juvenile Justice Act, professionals must first get involved with the juvenile justice system and develop strong ties with society. Nongovernmental organizations and the Union of local communities will also help to maintain the Delinquency. In order for juveniles to regain their confidence and feel convinced to adopt society's norms, the government should give importance to coercive, practical, and long-standing time programs for youth.¹¹

By designating children as a special national resource, the national procedure on children in 1974 preserved the idea that social and cultural advancement poses the only national risk. In addition, the nation has provided children with enough opportunities to advance in their mental, physical, and social development. Additionally, the Nation should ensure that children are protected from abuse, neglect, hardship, and abuse. The socially awkward children who have been punished as criminals or heretics are housed in secure facilities for teaching, practice, and recovery. This National Policy for Children from 1974 also includes a plan for each juvenile who has a location with many sensitive Sections to understand with circumstance.

3.2 JUVENILE JUSTICE ACT, 1986

With the exception of the Nation of Jammu and the geographical area, the Juvenile Justice Act of 1986 is an unquestionable and even reliable framework for children as of October 2, 1987, throughout all of India. Up until the J&K Children Act was passed in 1970, the Court Act was in effect in the

¹¹ International Journal of Interdisciplinary and Multidisciplinary Studies (IJIMS), 2014, Vol 1, No.6, 64- 70.

Nation of Jammu and Kashmir (J&K). However, beginning October 16, 1973, the J&K Children Act 1970 was only in effect in the sections of Jammu and Srinagar. It had policies similar to those of the Childs Act of 1960 as they existed prior to 1978. With the nationwide adoption of the Jammu and Kashmir Juvenile Justice Act 1997 (Act VIII of 1997) on January 1, 1998, both the earlier Acts were superseded. It joins the majority of the Juvenile Justice Act of 1986 Procedures. The Juvenile Justice Act of 1986 received widespread favor throughout India. Due to the JJA's uniformity and lack of a remedial basis, it eliminated several issues that had arisen as a result of consistency's absence.

3.3 THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT,

2000.

The JJ (C&P) Act, 2000 was passed by Parliament and has been in effect in all of India outside of the Nation of J&K since the first month of 2001. The JJ (C&P) Act was born and uprooted upon its return to force. The JJ (C&P) Act was written specifically to ask India for support with the United Nations Convention on the Rights of the Child and other fundamental sweeping instruments. The JJ Act, 2000 was passed to address offenses committed by minors in a way that differs from the legislation that applies to adults. The Act's very structure favors rehabilitation over the adversarial style that courts are often used to. Its execution therefore needed a radical shift in the thinking of those in positions of power to enforce it, without which it would be nearly difficult to accomplish its goals.

The Juvenile Justice Board will be established under this Act to provide justice for young people who have broken the law. After counseling and reprimand, the Board may permit the juvenile to return home [Section 15(1)(a)], order the juvenile to complete community service [Section 15(b)], participate in group counseling [Section 15(c)], or be fined [Section 15(d)]; or order the juvenile to be released on probation for good behavior and placed in foster care [Section 15(e)], issue an order directing the juvenile to be placed in a special home [Section 15(g)] and, taking into account the circumstances of the case and the nature of the offense, to shorten the stay in a special home [Section 15(1)].

The Child Welfare Committee will be established in accordance with the Act to handle concerns involving children and the law. This Act addresses children's fundamental needs and the protection of their human rights [Section 31(1)]. It also addresses their care, protection, treatment, development,

and rehabilitation. In accordance with Sections 8, 9, 34, and 37 of the Act, observational homes may also be established for the temporary reception, care, protection, training, development, and rehabilitation of juvenile offenders while the investigation is pending.

The Act prohibits the execution of death sentences, life sentences, and jail terms for nonpayment of fines or failure to provide security. The elimination of the disqualification that results in a conviction for the offense and the publishing of the juvenile's name, address, etc. in any newspaper, magazine, etc. [Section 19 and 21] are the two most important provisions of the Act.

A person who actually has charge or control over a juvenile is punishable under Section 23 of the Act for cruelty to a juvenile or child. A violation of Section 26 entails hiring a minor or child for a risky job, keeping them in servitude, and either withholding their wages or using them for personal gain. These are all cognizable offenses in nature.

The Act also calls for the hiring of a juvenile or child welfare officer with the skills and training necessary to work with young people in conjunction with police, as well as the establishment of a Special Juvenile Police Unit to improve how officers interact with young people.

3.4 THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

The United Nations Convention on the Rights of Children, which India adopted on December 11, 1992, is the focus of the Act. It outlines procedural safeguards for children involved in legal disputes. It aims to solve issues with the current Act such as lengthy adoption procedures, a backlog of cases, institutional responsibility, etc. Since there has been a rise in crimes perpetrated by children between the ages of 16 and 18 in recent years, the Act also aims to address this issue.

The Juvenile Justice (Care and Protection of Children) Act, 2000 is repealed by the Juvenile Justice (Care and Protection of Children) Act, 2015, which went into effect on January 15, 2016.

KEY PROVISIONS

1. Change in terminology throughout the Act from "juvenile" to "child" or "child in conflict with the law" to get rid of the word's negative connotation.
2. Adding new meanings for terms such "petty, serious, and heinous offenses" and "orphaned,

abandoned, and surrendered children;"

3. Precise dates for the Juvenile Justice Board's (JJB) investigation; clarity in the roles, duties, and powers of the JJB and the Child Welfare Committee; The Act requires the establishment of Child Welfare Committees and Juvenile Justice Boards in each district. Each must include at least one woman.
4. Special provisions for heinous offences committed by children above the age of sixteen years
5. Separate new chapter on Adoption to streamline adoption of orphan, abandoned and surrendered children
6. Inclusion of new offences committed against children
7. Child abuse, providing a child with a narcotic drug, kidnapping, and selling a child all carry harsh penalties. Anyone in a position of authority who fails to notify an abandoned or orphaned kid within 24 hours may face up to six months in jail, a fine of Rs 10,000, or both. The punishment for failing to register a child care facility is up to a year in prison, a fine of one lakh rupees, or both. Giving alcohol, drugs, or psychoactive substances to a kid is punishable by up to seven years in prison, a fine of one lakh rupees, or both.
8. Mandatory registration of Child Care Institutions
9. Children who are in legal trouble or who require care and protection have access to a variety of rehabilitation and social reintegration programs. To assist them in playing a positive part in society, children receiving institutional care are given a variety of services, including education, health, nutrition, de-addiction, illness treatment, vocational training, skill development, life skill education, counseling, etc. Among the many non-institutional choices are sponsorship and foster care, particularly group foster care, which involves placing children in a family context aside from their original family and requires careful selection, qualification, approval, and supervision.

3.5 The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021

Empowerment of District Magistrate:

1. In order to guarantee swift case resolution and improve accountability, it permits District Magistrate and Additional District Magistrate to make adoption orders under Section 61 of the JJ Act.
2. The District Magistrates have been given more authority to guarantee its successful execution and to coordinate efforts on behalf of children who are in distress.
3. After taking into account the District Magistrate's recommendations, all child care facilities must be registered.

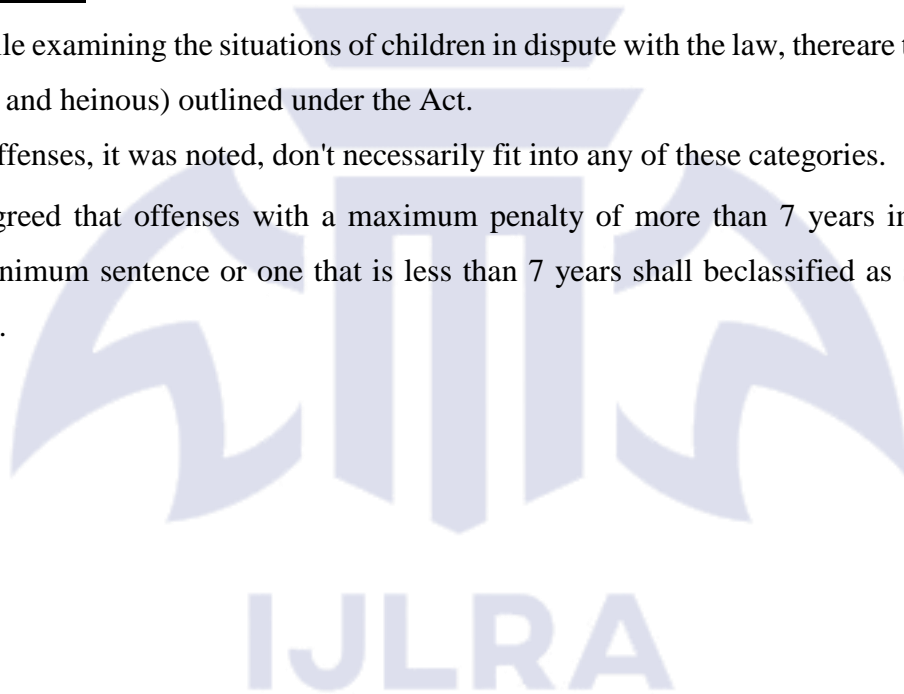
4. The District Manager (DM) is responsible for conducting an impartial assessment of the performance of the District Child Protection Units, Child Welfare Committees (CWC), Juvenile Justice Boards, Specialized Juvenile Police Units, Child Care Institutions, etc.

Child Welfare Committees (CWCs):

1. The prerequisites for the appointment of CWC members have changed.
2. To guarantee that only those qualified to serve on the CWC with the necessary competence and integrity are appointed, disqualification criteria for CWC members have also been implemented.

Serious offences:

1. Currently, while examining the situations of children in dispute with the law, there are three categories (petty, severe, and heinous) outlined under the Act.
2. Some of the offenses, it was noted, don't necessarily fit into any of these categories.
3. It has been agreed that offenses with a maximum penalty of more than 7 years in prison but no mandatory minimum sentence or one that is less than 7 years shall be classified as severe offenses under this Act.



CHAPTER-4

JUDICIAL TRENDS IN JUVENILE JUSTICE SYSTEM IN INDIA

4.1 INTRODUCTION

The Government and the broader public are both focused on juvenile problems at the moment. The work that has been done on these issues thus far, however, is insufficient due to their enormous magnitude. The government has committed to it, as well as the entire public to properly raise children who will be the citizens of future. Children now will lead society's decision-making future keeping the nation's standing in the globe at the highest possible level. If a child is misunderstood to require proper knowledge, teaching, thought, planning, or guidance, the general public and the government both fall short in this situation.

The Juvenile Justice System in India has been implemented and maintained in large part thanks to the Apex Court and several High Courts. When a juvenile offender is arrested, only the "Juvenile Justice Board" or "Lower Court" prosecutes the case; however, their decisions are not binding on other legal tribunals. Studying the judicial approach's tendency and objective as seen in the numerous judgments handed down by the Hon.

Supreme Court and High Courts about "juvenile delinquency" is crucial.

Indian law maintains a primary focus on the juvenile justice system, and the judiciary has made clear that it places special emphasis on the appropriate application of the law to the advantage of minors. Various Indian courts periodically set different judicial trends on juvenile misbehavior under such such as:

4.2 AGE OF JUVENILE

The age of a person who is participating in or committing an offense will surely be taken into account by the court to determine whether or not he is a juvenile. It is seen by The Apex Court that "very young children should not be sent to prison". The Juvenile Justice (Care and Protection) Act 2015, characterizes the expressions 'Child' & 'Juvenile' under sections 2(12) & (35) of the Act respectively, which considers "a person who has not completed the age of eighteen years". Additionally, Section 2(13) of 2015 Act defines 'child in conflict with law' as "a juvenile who is alleged or found to have

committed an offence and has not completed eighteen years of age as on the date of commission of offence”. The special legal provisions in India consistently maintain a defensive attitude toward children, and our judiciary has repeatedly upheld this position. Delinquent children in India are given particular protection by a number of laws, and the courts uphold this. In “**Emperor v. Wali Mohd. & another**”¹²

the Court held that “throwing of stone at a train by children of 5 and 8 years would ordinarily be protected under Section 82 and 83 of the Indian Penal Code and would not be punishable as offence”.

i) **Ashwani Kumar Saxena vs. State of M.P**¹³

The police filed a charge sheet against Ashwani Kumar Saxena and two others, specifically Jitender and Ashish, for a crime they allegedly committed on October 19, 2008, at 12.30 am outside Krishna Restaurant in Chhatarpur that is punishable under Sections 302 of the IPC and Sections 27 of the Arms Act and Section 34 of the IPC, respectively. It resulted in the death of one Harbal Yadav, a case for which Sessions Case No. 28/09 was ongoing at Chhatarpur, Madhya Pradesh, under the supervision of the First Additional Sessions Judge (M.P.). On November 11, 2008, the appellant filed an application with the CJM Court in Chhatarpur pursuant to Sections 6 and 7 of the J.J. Act, arguing that the criminal court lacked jurisdiction to hear the case because the appellant was a juvenile on the date of the incident. The appellant requested that the case be referred to the JJ Board and that he be granted bail.

The C.J.M. court considering ordering a bone test to establish the litigant's age. Dr. R.P. Gupta, PW-2, requested an X-ray to determine the age of the litigant's body and believed that the wrist, elbow, knee, and iliac crest epiphyses were fused. He estimated that the appellant was over 20 years old on April 11, 2008, and his report, marked P-5, reflected that conclusion. The court heard testimony from PW-3 Dr. S.K. Sharma, a medical official at the district hospital in Chhatarpur, who oversaw the appellant's dental examination to determine his or her age. The age of the appealing party was determined to be over 21 years after PW-3 discovered that each of the 32 teeth exists conclusively of all wisdom teeth.

¹² AIR 1936 (Sind) 185

¹³ [Criminal Appeal No. 1403 of 2012 Special Leave Petition (CRL) No. 7271 of 2011]

ii) Deoki Nandan Dayma v. State of Uttar Pradesh¹⁴

The court noted that entries in the student's school record mentioning their DOB are acceptable evidence for determining their period of adolescence or whether they are a child or teenager.

iii) Ravinder Singh Gorkhi v. State of Uttar Pradesh¹⁵

It was observed that the accuracy of a person's birthdate while under the scrutiny of a court, whether in a civil or criminal process, would depend on the present circumstances of each case to be resolved based on the information on the records and in a manner specified under a regulation. In order to prevent any wrongdoing to the subject of the case, the official court will be required to give the juvenile the advantage.

4.3 JURISDICTION OF THE BOARD/COURT**i) Daljit Singh vs. State of Punjab¹⁶**

It was held in this case that, "Juvenile Justice Act, 1986 is a complete Code in itself and has sweepingly overriding effect on any other enactment of the State Legislature or Parliament viz, the Cr. P.C. regarding inquiry/ proceedings or a trial against a delinquent juvenile on any criminal charge."

ii) IN RE: SESSIONS JUDGE, KALPETTA (KERALA)¹⁷

A Bench of the Kerala High Court in managing a clear clash between the 'Juvenile Justice Act, 1986' and 'Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989', with respect to which would prevail over the other, held that the provisions of later Act would have no overriding effect over the provisions of 1986 Act.

iii) Sunil Kumar vs. State of Haryana¹⁸

On May 17, 1990, in P.S. Sadar, Hisar, a FIR was filed under Sections 376, 366, and 201 IPC against

¹⁴ 1997 i0 SCC 525

¹⁵ AIR 2000 SC 2648

¹⁶ 1992 Cri.L.J 1051

¹⁷ 1995 Cri.L.J. 330

¹⁸ 2010 (4) RCR (Criminal) 414

the petitioner/accused. He was accused of committing rape on the prosecutrix on May 16, 1990, brought to trial, and given a strict 7-year prison term. Under the supervision of the High Court, a criminal revision petition remained unsuccessful and was rejected. The petitioner filed an application while the appeal was pending under the watchful eye of the High Court, claiming that he was a minor when the offense was committed. Without considering the issue of the accused's immaturity, the High Court rejected the appeal. Under the watchful eye of the Supreme Court, the applicant supported a Special Leave Petition that was also dismissed following the dismissal of the appeal.

Sections 7-A and 20 of the Juvenile Justice Act of 2000 were the subject of a review petition that the petitioner supported because they were ineffectual and were handled by the Supreme Court. The court determined that the competent court has the authority to evaluate the petitioner's youth independently of upholding the Supreme Court's conviction after taking into account the relevant provisions.

4.4 APPREHENSION AND PRODUCTION OF JUVENILE

i) Suri & Ors. v. Delhi Administration¹⁹

It was determined that no child should be taken to prison since, in that event, the goal of protecting the child from the terrible effects of prison life would be defeated. The teenager should be housed in a separate ward and not allowed to mix with adult prisoners since doing so would expose them to negative effects that might delay their full recovery.

ii) Sheela Barse & Anr. Vs Union of India & Ors.²⁰

This lawsuit was a response to a previous court order that the district judges had disregarded. The Court mandated the following:

1. The trial of kids should occur just in the juvenile courts and not in the customary criminal courts.
2. In order to provide total uniformity with regard to the many provisions identifying with youth in the entire domain of the country, it would be appealing if the Central Government began parliamentary enactment addressing the issue. The Children's Act that Parliament may enact should include mandatory provisions for ensuring the social, financial, and mental recovery of children who are either accused of crimes or who are abandoned, penniless, or lost, in addition to provisions for

¹⁹ (AIR 1988 SC 414)

²⁰ 1986 SCC (3) 596

investigating and prosecuting offenses against children under the age of 16.

iii) **Sanjay Suri & Ors. v. Delhi Administration**²¹

It was determined that no child should be taken to prison since, in that event, the goal of protecting the child from the terrible effects of prison life would be defeated. The teenager should be housed in a separate ward and not allowed to mix with adult prisoners since doing so would expose them to negative effects that might delay their full recovery.

4.5 BAIL TO JUVENILE

The Juvenile Justice Board and the court should be able to provide bail to the juvenile who has been brought before them because it has been stated in the Act that "Bail is a rule not the jail." The following instances illustrate the judicial tendency in this area:

i) **“Arvind vs. State**²²

Court observed: “the gravity of the offence is not a criteria or impediment for the release of the juvenile on Bail”.

ii) **Kamil vs. State of Uttar Pradesh**²³

Court observed that, “A juvenile in conflict with law may be released on bail with or without surety but such release shall not be possible if there appear to be reasonable grounds for believing that such release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological, danger or his release would defeat the ends of justice. Welfare of the juvenile or child is the need of the day and the provisions contemplate a judicial officer with more sensitive approach-oriented outlook.”

4.6 FINAL DISPOSITION OF THE JUVENILE CASE

After the Delhi gang rape case, the Indian Parliament acted in 2012 in response to societal demands and passed the Juvenile Justice (Care and Protection) Act 2015, which added new and crucial

²¹ (AIR 1988 SC 414)

²² 1999 (2) I CC Delhi 311

²³ 1994 Cri. LJ 1491

provisions to the JJ (C&P) 2000 Act. The 2015 Act, which was enacted by Parliament, aims for overall improvement and reclamation, regardless of whether it pursues strict penalties for some crimes committed by minors under the age of 18, as well as for certain crimes committed by adults. The Supreme Court of India and several High Courts have recently put a lot of effort into understanding the new sanctions in order to promote the cause of juvenile justice. The Supreme and High Courts' judicial precedents serve as guiding principles for the subordinate judiciary. At the time of the case's ultimate disposition, the courts have also made an effort to give the teenager in conflict with the law an opportunity to better himself by providing proper training and giving the adolescent's involvement in the quality of living important attention and assurance.

i) Munna v. State of UP²⁴

Regarding children housed in detention institutions, the Indian Supreme Court issued a number of directives. The top court ruled that a child shouldn't be mistreated whether or not they are found guilty of a crime. When individuals enter prison, they shouldn't have their fundamental rights violated.

ii) Ram Suresh Singh vs. Prabhat Singh alias Chhotu Singh & Anr²⁵.

The court held that t “we are not oblivious of the fact that it is difficult to lay down a law as to whether in a case of this nature, the lower or the upper age or the average age should be taken into consideration. Each case depends on its own facts. In this case, however, the documents produced by respondent no.1 were not found to be forged, fabricated or otherwise inadmissible in law. If a document is proved to be genuine and satisfies the requirement of law, it should be, subject to just exceptions, relied upon”.

iii) Sheela Barse vs. Secy., Children's Aid Society²⁶

Following a writ suit she had filed, the plaintiff contested the Bombay High Court's ruling. She complained about the operation of the New Observation Home in Mankhurd, which was maintained and watched over by the Children's Aid Society of Bombay, in the writ petition filed under the watchful eye of the Bombay High Court. The applicant's objections were divided into four categories as follows:

²⁴ AIR 1982 SC 806.

²⁵ 2010 (1) RCR (Criminal) 245

²⁶ (1987) 3 SCC 50

- 1 Delay in sending home or returning to parents of children for whom the Juvenile Court issued orders for taking home;
- 2 Not using one's head while arresting children and organizing work under the watchful eye of the juvenile court;
- 3 Lack of proper follow-up after the children were confirmed to be in the observation homes, notably a complaint that the Child Welfare Officers were not carrying out their responsibilities, led to the continued incarceration of children without cause;
- 4 It was illegal to hold children under such circumstances, and the situation commonly resulted in badgering. Despite the fact that without this promise, the condition of the Homes couldn't improve, the court disagreed with the monitoring of the observation homes. Notwithstanding, the court held that "dedicated workers have to be found out, proper training has been given to them and such dedicated workers should be introduced into the children homes".

The Court had the following observations:

- 1 That the Superintendent of the Observation Home and the Child Welfare Officer (Probation) should be effectively convinced. They should be well-versed in brain science and possess a keen sense of perception, and the effectiveness of the strategy will depend on these qualities.
- 2 A judicial officer with special training must oversee the Juvenile Court. Establishing a court with a regular judge and designating it as a juvenile court does not fulfill the requirement of the resolution. In the unlikely event that things turned out this way, the resolution wouldn't require a juvenile court. A different type of legal official with a more sensitive, approach-oriented attitude is considered in the legal strategy. Any judicial officer would undoubtedly be unable to handle the special situation involving children without these.
- 3 The Court agreed with the appealing party that the respondent Society should be viewed as a State for purposes of Article 12 interpretation. Thus, it was suggested to the respondent Society to conduct its operations in accordance with legal requirements, as well as to operate in a manner satisfying the requirements of the protected provisions in Articles 21 and 24, as well as the Directive Principles of State Policy.
- 4 The Court further instructed the State of Maharashtra to swiftly take action to strictly uphold the law, comply with constitutional obligations, and continue to follow the guidance provided by the High Court as well as by it in this judgment.

CHAPTER-5 CONCLUSION AND SUGGESTIONS

5.1 INTRODUCTION

Former Secretary-General of the United Nations Kofi A. Annan says that it is within the family that children learn the values that will guide them for the rest of their lives. It is within the family that they form their earliest relationships, learn to communicate with others and interact with the world around them. It is within the family that the notion of human rights becomes a reality lived on a daily basis. If tolerance, respect and equity permeate family life, they will translate into values that shape societies, nations and the world. In a similar vein, the Indian legal system's National Policy for Children has long been a source of comfort and anxiety for us. The Juvenile Justice System, as acknowledged by endorsement, is responsible for providing thought, security, therapy, growth, and convalescence to Juveniles who have committed crimes or been rejected.

5.2 CONCLUSION

Every child has the right to a happy, joyful childhood, to grow up in a safe environment, to be free from the complexities and convolutions of life, and so on. However, some unfortunate and predestined children are deprived of these fundamental rights, leading them to exhibit undesirable characteristics or turn into juvenile offenders. However, juvenile crimes are a terrible reality of today's society. In order to diminish them, legal regulations must be effectively executed, and awareness and emphasis must be raised both by the government and the public. Instead of punishing young people who break the law, the magistrates and police, who are the main implementers of the system, should have a more reformatory perspective and outlook.

'The Juvenile Justice (Care and Protection of Children) Act, 2015' outlines the fundamental legislation for the care and protection of children in cases of legal conflict, in addition to the adjudication and resolution of disputes. Our Juvenile Justice System is confined in its application to the 'children in conflict of law' & 'Children in need of care and protection'. The term 'juvenile justice' consists of all facets of a composite system including the rehabilitation of children and adolescents who commit offences.

The notion of juvenile delinquency is not of a very recent origin in India. The juvenile delinquency is related to the abnormal attitude or criminal behaviour of a child. In present time the instances of juvenile delinquency are growing day by day with increasing populace and changing way of

life in India.²⁷ This increase in juvenile criminality is primarily seen among children between the ages of 16 and 18, or those who are still in their formative years. In this age group, minors are particularly involved in crimes including robbery, theft, riot, mob-lynching, rape, and injury cases. Juvenile delinquency is caused by a variety of factors, including personal, psychological, biological, physiological, peer pressure, physical limitations, a desire of adventure, and discontent and frustration with family and school. Neediness, ignorance of parents, lack of care and supervision, disappointment in school, indifference from society and so on can be seen as some of the main attributes affecting juvenile crimes.²⁸

In India 'The Juvenile Justice (Care & Protection of Children) Act, 1986' was the 1st enactment under independent India to deal with the problem of juvenile delinquency but was put back by 'Juvenile Justice (Care & Protection) Act, 2000' since the old enactment was not able to give broad extent of 'Delinquent Juveniles' & 'Neglected Juveniles'. 'The Juvenile Justice Act, 2000' covers mainly 2 broad classes such as 'child in conflict with law' and 'child in need of care and protection' that the 'The Juvenile Justice (Care & Protection of Children) Act, 1986' ignored. However, after Nirbhaya case, prompt need of amendments in the act were felt, consequently 'The Juvenile Justice (Care & Protection of Children) Act, 2015' came into force. There were no procedures for separating out and categorizing heinous acts prior to the new laws of 2015. The Delhi Gang Rape (Nirbhaya's Case) struck India's parliament and lawmakers with accusations of being unable to handle the current situation. The legislators saw the need to pass the Juvenile Justice (Care and Protection of Children) Act, 2015, which focuses on the arrangements for "heinous crimes." When it comes to major crimes like murder, rape, kidnapping, etc., the age restriction is set at 16.

Moreover, the child in such matters is taken as a grownup criminal. 2015 Act categorized the crimes in 3 parts as follows:

1. Petty offences- where maximum imprisonment under IPC is up to 3 years.
2. Serious offences- where maximum imprisonment under IPC is 3-7 years.
3. Heinous offence- where maximum imprisonment under IPC is 7 years.

²⁷ First Published 2004. Ved Kumari, *The Juvenile Justice System in India from Welfare to Rights*, Oxford University Press, New Delhi.

²⁸ Yogesh Sneh, —State and Child Justice: Stories of Delinquent Juveniles in *Economic and Political Weekly*, Vol.39, No. 41, 9 October 2004, pp. 4512-4515

Our law makers need to bring the appropriate infrastructure and sufficient rules of procedure to administer and implement the juvenile justice system.²⁹

Limitations observed in JJ Act, 2015 are as follows:

- 1- The obligation of parents in the subject of adolescent delinquency could not be explained by this statute.
- 2- The act fails to give minors procedural protections like the right to speedy trials.
- 3- The act failed to keep a connection between various elements pertaining to a child's welfare, such as child labor, adoption, exploitation, sexual abuse, etc.

The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021

- **Adoption:** Under the Act, once prospective adoptive parents accept a child, an adoption agency files an application in a civil court to obtain the adoption order. The adoption order issued by the court establishes that the child belongs to the adoptive parents. The Bill provides that instead of the court, the district magistrate (including additional district magistrate) will perform these duties and issue all such orders.
- **Appeals:** The Bill provides that any person aggrieved by an adoption order passed by the district magistrate may file an appeal before the Divisional Commissioner, within 30 days of such order. Such appeals should be disposed within four weeks from the date of filing of the appeal.
- The Act provides that there will be no appeal for any order made by a Child Welfare Committee concluding that a person is not a child in need of care and protection. The Bill removes this provision.
- **Serious offences:** The Act provides that the Juvenile Justice Board will inquire about a child who is accused of a serious offence. Serious offences are those for which the punishment is imprisonment between three to seven years. The Bill adds that serious offences will also include offences for which maximum punishment is imprisonment of more than seven years, and minimum punishment is not prescribed or is less than seven years.

²⁹ (3rd ed., 2012) R. N. Choudhary, Law relating to Juvenile Justice in India

- **Designated Court:** The Act provides that offences against children that are punishable with imprisonment of more than seven years, will be tried in the Children's Court (equivalent to a Sessions Court). Other offences (punishable with imprisonment of less than seven years) will be tried by a Judicial Magistrate. The Bill amends this to provide that all offences under the Act will be tried in the Children's Court.
- **Offences against children:** The Act provides that an offence under the Act, which is punishable with imprisonment between three to seven years will be cognizable (where arrest is allowed without warrant) and non-bailable. The Bill provides that such offences will be non-cognizable and non-bailable.
- **Child Welfare Committees (CWCs):** The Act provides that states must constitute one or more CWCs for each district for dealing with children in need of care and protection. It provides certain criteria for the appointment of members to CWC. For instance, a member should be: (i) involved in health, education, or welfare of children for at least seven years, or (ii) a practising professional with a degree in child psychology, psychiatry, law, or social work. The Bill adds certain criteria for a person to be ineligible to be a member of the CWC. These include: (i) having any record of violation of human rights or child rights, or (ii) being a part of the management of a child care institution in a district.³⁰

5.3 SUGGESTIONS

The future of the country will largely depend on the appropriate physical, hygienic conditions, and mental state of today's children because they will be the nation's responsible citizens in the future. As a result, the problem is huge, and it has to be taken into immediate attention. The goal of the Act cannot be achieved even though the seriousness of the situation is correctly understood and the response is sufficient in terms of the activities and promptness of attention. Since juvenile delinquency is a result of a person's environment, it is vital to take suitable, socially and legally sanctioned actions to avoid it. The rights to care and protection, education, food, housing, etc., are not recognized for children.³¹ In order to raise future generations of responsible citizens, society and the government must focus on children now. Therefore, it is essential that the family and

³⁰ *The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021*. (n.d.). PRS LEGISLATIVE RESEARCH. Retrieved December 4, 2022, from <https://prsindia.org/billtrack/the-juvenile-justice-care-and-protection-of-children-amendment-bill-2021>

³¹ Prof. Najmi, Mohd. Juvenile Delinquency – Its Causes and Remedies, 25 CBI Bulletin, 1991.

society participate in efforts to reduce the issue of juvenile delinquency.

The following recommendations are given in accordance with the study's requirements to lessen the issue of juvenile delinquency and to improve our juvenile justice system:

1. Community Participation needed to be Increased

The majority of children who are brought into this framework will continue to be institutionalized until the community takes part in this operation, and "The Juvenile Justice System in India" must continually stay on operating in isolation from the norm. Extra-volunteer organizations, people, and locations should be seen as special homes, suitable individuals, safe places, suitable institutions, observation houses, etc. This could shorten the gaps between the probation officers and the community, which are frequently major roadblocks to good and efficient counseling.

2. Reducing Pendency of Cases and Building Faith in JJS

The JJB and the courts are now dealing with a sizable number of cases. To lower this number, government employees and the judiciary must exercise extreme diligence.

Juvenile crime victims must have confidence that the judicial system will be prompt, impartial, and just. Children who are in trouble with the law and criminal organizations that commit crimes and flee while taking advantage of drawn-out legal processes need to be afraid of receiving prompt and efficient justice in the juvenile justice system.

3. Shortening Time Limit for Investigation

The amount of time allotted to the juvenile police officers to look into the issue has to be cut down. It has been observed that the length of the inquiry procedure hinders the achievement of justice's goals. In order to avoid unnecessary delay, the final report should be submitted as soon as is practicable given the type of crime, starting from the date of the complaint. For the sake of efficiency and openness, a social worker may also be included in the investigation conducted by the police department.

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