

COMPARATIVE ANALYSIS OF JUVENILE DELINQUENCY IN INDIA AND OTHER COUNTRIES

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ABSTRACT

'Children need love, especially when they do not deserve it'. This famous quote was said by Harold S Hulbert, a child psychiatrist.

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INTRODUCTION

Children are supposed to be the building rocks of any country. Children are the pillars of a progressive nation and later on become the builders of the world in the future. They are considered the assets and wealth of any country. A child's upbringing should always be in an environment where a child can grow physically and emotionally. Growing emotionally in a healthy environment is important for the child's personality. A child should grow physically and mentally healthy so that they could be an active and responsible citizen of the country.

In Locke's philosophy, a child's mind is like a blank slate, and the environment is solely responsible in the development of the child's personality. In the current times of modernization and urbanization, one of the solemn concerns the society is facing is the incompetence of the social system, one of them being juvenile delinquency. Juvenile delinquency has developed to become a vital facet of criminology as more and more juveniles are committing serious crimes which is impeding the economic and social stability of a country.

Juvenile behavior is observed as delinquent in each generation and in every corner of the world. An Egyptian priest almost 6000 years ago wrote on the walls of a tomb: "Our earth will degenerate in these later days. There are signs that the world is coming to an end because children no longer obey their parents". Socrates wrote a paragraph over 2400 years ago, "children now love luxury, they have bad manners, contempt for authority, they show disrespect for elders and love chatter in place of exercise. Children no longer rise when elder's enter the room. They contradict their parents, chatter before company, gobble up dainties at the table, cross their legs and tyrannize over their teachers."¹Hence we can say that deviant conduct of children has always been a cause of concern.

The question is, how is juvenile delinquency defined? Is there any exact definition of it? The term juvenile delinquency is defined in diverse ways by several writers but in generic terms it is a kind of behavior conducted by the children below the age of 16-18 years, who is involved in a criminal act. These children are termed as juveniles and their criminal or anti-social activity is called juvenile delinquency. Juvenile delinquency occurs when a child fails to adhere to the societal norms and expectations and shows deviant behavior which is considered non societal.

Juvenile delinquency is a form of act where children are involved in criminal activities. The legal system has adopted many rules regarding these delinquents, where they are put in observation homes and their trial is taken place in the Juvenile Justice Court. In India, these juvenile offenders are not charged under the Indian Penal Code 1860 for committing a crime, if not a child they would have been otherwise charged under the IPC and would have been tried like an adult who has committed a crime. In this the juvenile is not accountable to any legal actions taken with him/her.

There are two terms; minor and juvenile, which are interchangeably used, but in the legal field, these two words are seen in different perceptions. The term juvenile is generally used in reference to a young criminal offender and minor is related to legal capacity of a person.ⁱⁱ Whereas a minor is a child who is not yet an adult under the eyes of law, and his responsibility lies under a guardian until the child turns 18 years old which is the age of majority in India and many other countries.

DEFINITION AND NATURE OF JUVENILE DELINQUENCY

Juvenile delinquency is becoming popular in a developing country like India. Children are getting involved in crimes at a young age, due to many reasons. These children are not put under the complicated legal system. The juvenile justice system handles the juvenile offenders in a different and protected manner. The system focuses on the juvenile's rights and follows the principle of restorative justice where it tries to analyze the situation and the crime rather than focusing on the punishment the child should be given.

The concept of juvenile delinquency is confined to the Juvenile Justice Act 2000. The act takes care of the children who are in conflict with the present law and need protection from it. The Juvenile Justice Act has been replaced with the Juvenile Justice Act of 1986, to fit into the present needs of the society. At first girls below the age of 18 years and boys below the age of 16 years were considered juveniles but later on in the 2000 Act it was amended that age of a juvenile boy or a girl became 18 years, the age became same for both the genders. Judicial delinquency is also called judicial offending, each nation state has a different juvenile system and laws on how to handle these juvenile offenders.

Juvenile delinquents are children from the age group ten years to seventeen years who are involved in an unlawful activity. There are two categories of guilty parties, one is the rehash wrongdoer and the second kind is the age particular guilty party. Rehash wrongdoers are those who have been constantly involved in criminal activities throughout their childhood. Rehash guilty parties keep on engaging in criminal exercises or forceful practices even after they enter adulthood. Age-Specific offenders indulge in reprobate conduct in their youth. Not at all like the rehash wrongdoers, in any case, the practices of the age-particular guilty party stops before the minor turns into a grown-up.ⁱⁱⁱ

In the circumstance of age specific offenders, the child will leave its delinquent behavior in his pre adulthood and will later on know what is ethically correct or incorrect. However rehash guilty parties will endure its delinquent conduct even after it reaches the period of adulthood leading to many psychological difficulties in the future.

In USA, the legal definition of the term juvenile delinquency is that, a juvenile is a person who has not attained his eighteenth birthday, and juvenile delinquency is the violation of the law of the Unites States of America committed by a person prior to his eighteenth birthday which would have been a crime committed by an adult. A person over the age of eighteen and under the age of twenty one years of age is also accorded juvenile treatment if the act of juvenile delinquency occurred prior to his eighteenth birthday.^{iv}

In British law, juvenile delinquency is an act committed by a juvenile who has violated the legal system and the juvenile is tried in juvenile court by the police or by the local authority of a child's department, if they feel that the child requires protection, care and control during investigation.

THEORIES OF JUVENILE DELINQUENCY

There are many thinkers, psychologists, lawyers who are trying to understand the concept of juvenile delinquency by conducting many experiments and research. The common question which comes about is what is the connection between crime and juveniles? There are several theories based on juvenile delinquency and it has been perceived that one can only comprehend juvenile delinquency and crime, if they are studied in a comprehensive way.

BIOGENIC THEORY

The biogenic theory, which articulates that the body structure of a criminal is different from a normal human being. It says that an individual's criminal nature originates from his body structure. One of the most important feature of the human body which determines if the individual has a criminal mind is the skull (size and the form). A physician, Fran Joseph Gall conducted a study on the localization of mental functions in the brain and realized that a few of his friends had distinct head configurations. He visited a few prisons to study the misconfiguration of the skull and came to a conclusion that there is a relationship between the skull and the character of the individual. Lombroso, a criminologist believed that criminality was hereditary and criminals could be recognized by their physical traits which include hairy body, eyes which are red, bumps in the skull, receding chin and extreme sensitivity or no sensitivity towards pain.

PSYCHOGENIC THEORY

The psychogenic theory emphasizes on the emotive facet of the criminal. Motivation plays an imperative role in criminology. If the desires are not in accord with the law, it may lead to abnormal conduct. A delinquent has the following psychological features such as stubbornness, antagonistic in nature and non-submissive to authorities and individuals. This theory believes that society is responsible in the birth of delinquents and criminals, it is not inherited by birth. The society is liable in determining whether an individual will indulge in wrong activity or not, it depends on the surroundings and the social conditions of the individual concerned. Criminal behavior is also impacted by personal relationships, peers, or family etc. Even media plays a vital part in it.

MEDICO-BIOLOGICAL AND CLASSICAL THEORY

The other theories are medico-biological theory which focuses on the genetic matter and says that an individual's physical illness or harm also impressions the crime he/she will commit. Classical theory is one such theory in which moral plays a key role in a person. An individual has a free will to do anything he/she wants and will be responsible for his/her own acts, and later on will be punished on that guilt.

A conclusion has been brought about by many scientists, philosophers, criminologists, psychologists and lawyers that a criminal will commit a crime on the basis of nature and nurture. Criminal activity is product of nature and nurture. There is no single reason why juvenile delinquents commit crimes. There are multiple reasons which can be hereditary, situational or cultural.

CAUSES FOR JUVENILE CRIMES

There are numerous causes which foster juvenile crimes, it would be biased to give an exact cause why these juvenile delinquents obligate in such kind of crimes. These juveniles commit different kind of crimes such as robbery, theft, rape, murder, sex picketing etc. A child should always be brought up in a healthy environment where he/she is able to grow mentally and physically which will make him a sensible and responsible citizen of the country. If the child is growing in an unhealthy environment, then it might lead to serious problems which will lead him to take wrong choices in life.

The cause of juvenile delinquency is not simple but rather complex and intricate. The character of the child is shaped by his surroundings. Children become delinquent by force of circumstances and not by choice. ^v These are the following risk factors that lead to juvenile delinquency

Family

It is a social group where a child first interacts and learns his norms and values. A child should be brought up in an environment where there is love and warmth. A family is a social group which the most influential in a child, especially in the childhood than the later stages of adolescence and adulthood.

It is important for the child to live in a stable and healthy home, and not in a troublesome and unstable household which later on affects their personality. The behavior of juvenile delinquency can be seen in families which are destructive in nature and are not stable. For instance families which are broken, where there is constant tension in the family, alcoholism and drug addicts are present in the family, a divorce in the family can also mentally affect the child. Signs of domestic abuse in the family or even lack of attention from the parent, emotional instability can all lead to the child becoming a delinquent in the future. One of the most risking factor leading to juvenile delinquency is the low economic condition of the family, many times due to a financial crisis the child often is forced to make money for the family in any illegal way. This kind of delinquent are from the low strata of the society, as we can see that a majority of the delinquents committing crimes are from the lower class of the society.

School

The second social group influencing these juvenile delinquents is the school. The school also shapes the child into an adult in many ways. There can be various misbehaviors taking place in school such as getting into a fight with peers, vandalism, cheating, alcoholism, smoking and even drug abuse. In school, a minor degree of delinquency takes place amongst children such as cheating or using abusive language or any kind of weapon possession, petty theft.

There is a belief amongst many people that children belonging to the lower strata of the society who often drop out and have no sense of educational aim in life tend to commit such kind of juvenile crimes. The school is not liable for these children directly, but plays a major part in shaping these children. Not all schools take the concern of juvenile delinquency so frivolously, the school authorities do take stern action against this misconduct and do take the assistance of the police if required in a serious condition. If the school fails to perform its function diligently then it might become an asset of juvenile delinquency due to its negligence on these children.

Neighborhood

Neighborhood is the next factor causing juvenile crime, the influence of neighborhood depends on the locality a person lives in. Places where there is overpopulation such as cities, towns and crowded village, the risk of such crimes are higher in rate than remotely populated areas, as there are more opportunity of crimes like theft, robbery, murder, burglary, kidnapping, rape etc. therefore we can say that influence of neighbor related to juvenile crimes is greater in urban areas, as we see common crimes like theft, cheating, robbery in places like the bus, railways stations, market areas etc. The neighborhood can contribute to delinquency by blocking basic personality needs, engendering cultural conflicts and fostering antisocial values. Congested neighborhoods with inadequate recreation facilities deny the natural play impulses of children and encourage the formation of delinquent gangs.^{vi}

Peers

The next social group which has the greatest influence in this kind of crime is the group of peers. One says that being in a certain company influences an individual's character to a great extent.

A peer group is an informal group of people of the same age mostly who you interact and meet on a day-to-day basis. Peer groups associated to juvenile delinquents are also termed juvenile collectives or cliques. It is believed that a child's brain is not so developed as an adult's brain which makes it easy for the peer group to influence the child, hence it's easier for them to get involved in criminal activity.

Often these children start associating with these juvenile collectives in common words called gang and even start having gang names for them. They learn the techniques of committing juvenile crimes by the help of these gangs. Gangs act as a contributory factor to juvenile delinquency.

Boys and girls often learn techniques of committing crimes in gangs. Gang is more or less a means of conveying techniques of delinquencies, of training in delinquency, of safeguarding its members engaged in delinquency and of maintaining continuity in delinquency.^{vii}

Poverty

The socio-economic conditions play a great factor in juvenile delinquency, as they indulge themselves in crimes so they could fulfill the primary needs for himself and his family. Most people living the poverty line, have a higher chance of committing such crimes. Due to modernization and industrialization, money has been the key significance for each member of the society, as it a parameter to measure the social status in a society. There is a large gap between the deprived and rich which furnishes an enticement to criminal behavior. The question is what is the reason to the low economic condition in a nation? One of the answers is unemployment, a large population of the nation is not employed which increases poverty and disparity leading to a feeling of resentment of the unemployed against the society.

Media

Media ranges from TV, movies, magazines, internet and what else. In today's time a child spends most of his time with technology which gives them a wider scope to gain knowledge which is not always the right one. Children grasp visual media faster than other kinds of knowledge, and often the media becomes a medium through which a child learns the technique of crime and delinquency.

Children love to watch movies in their age, and often get influenced to do the reel things they see in the movie to do in their real life, which include crime. They get to know the concept of theft, kidnapping, robbery, murder in a clearer way through the cinema they are exposed to. The role of press is also a risk factor leading to juvenile behavior as nowadays children are always watching the headlines, or the clippings of news on various media platforms which contain news of criminal activities which influences the child on how to commit these crimes.

JUVENILE JUSTICE SYSTEM IN INDIA

Each nation has their own juvenile justice system, with their own rules and regulations but one thing in common which every country has to follow is the concept of 'Parens Patriae', which means that it is the responsibility of the king to guard the child by acting as a parent in the case of the child being an orphan. In the court of America, this principle of Parens Patriae is applied, which makes the court of law the custodian of the juvenile at its best interest.

The juvenile justice system is made of up many constituents such as the juvenile courts, the police, and observation homes, corrective homes for children, the juvenile justice board, shelter homes and many more organizations protecting the juveniles. The police has to play the most important function to prevent and control the juveniles from committing such crimes. In the case of juvenile crimes, the police cannot arrest the juveniles like adults, but a special unit of juvenile committee board is setup in every district of a state in a country to handle cases of juvenile delinquency.

The juvenile justice system can be originated from the British period, as there were certain rules and regulations set up by the British government to deal with juvenile delinquency. Prior to the system introduced by the British policing of the children was governed under the Muslim and Hindu laws. The first step which was introduced by the Britishers was the 'Whipping Act of 1864, in this act there was a law in which the children were whipped if they had committed any crime in order to avoid the crime in the future. The act of whipping created a dread in the minds of the children so that they would not repeat their fault. Much later on the Indian Penal Code of 1860 and the Criminal Procedure Code of 1861 took further provisions on the concern of juvenile delinquency and most of the philosophies were influenced by the countries of the West.

The Apprentice Act was introduced in 1950 and juveniles who had committed a crime between the ages of ten to eighteen years had to be taken care of separately, the convicted children were to work as trainee for businessmen.

The Code of Criminal Procedure of 1861, there was a law passed in which separate trials were taken for the juveniles who are under the age of fifteen and were sent to rehabilitation instead of prisons. The act included laws on how to treat the juveniles, and wanted the punishment changed from penal to the reformatory concept. In context to the reformatory concept, the reformatory school of act came about in 1876 and 1879. In this school of act, it was prescribed that juveniles should be kept in reformatory schools for a time period of two to seven years and once the juvenile turned eighteen years old, he/she would be transferred to adult prison.

There was no national enactment under the British era. In any case, certain regions thought of their own enactments to manage adolescent misconduct (like Bombay, Madras and Pondicherry).

After our country gained independence, the juvenile system in India became more systematic and structured. The system was supported by many international organizations such as UN convention on Rights of Child and Beijing rules. Many laws were passed, the utmost crucial one was central act child's act of 1960 which was passed by the central

government, which banned the imprisonment of juveniles in any circumstance. In 1986, the central government passed the Juvenile Justice Act which took care of the juveniles and the abandoned children. The concept of juvenile court was introduced and welfare boards were set up for the protection and care of the neglected children. India was one of the first nation to apply the doctrines of the United Nation Standard Minimum Rules for the Administration of the Juvenile Justice. In 2000, the existing law was replaced by the old law, and the Juvenile Justice (Care and Protection of children) Act was passed to serve the best interest of the juveniles, which was uniformly passed in the entire country where it said there no child under the age of 18 can be put into jail.

JUVENILE JUSTICE AND CONSTITUTION OF INDIA

The Constitution of India is the supreme law maker must be adhered to and the constitution sets out the rights and obligations of its residents which are to be followed. The working of government hardware is likewise given by the constitution. What's more, notwithstanding this, Part IV of the Indian Constitution accommodates Directive Principles of State Policy DPSP-and this is given fundamentally to guarantee the smooth working of the general public. With regards to the rights and government assistance of the youngsters following steps has been given by the constitution. Certain articles like article 21A which is right to free and compulsory education to all kids of the country from the age of six years to fourteen years of age, article 47 of the Indian constitution which is to provide proper standard of living and good nutrition. While drafting the Justice Juvenile Act of 2015, all the articles have been included which is in the best interest to protect the rights and duties of a child.

The concept of Juvenile justice system became important after the awakening case of the Nirbhaya gang rape. People started questioning the juvenile justice system in India, and started becoming aware about the concept of juvenile delinquency and the juvenile system too.

COMPARISON OF THE JUVENILE JUSTICE SYSTEM IN DIFFERENT COUNTRIES

Different countries have their specific practice of dealing with juvenile delinquency. But there are 3 basic models which any country follows, which is the welfare model, the punitive model and the restorative model.

United States of America

It consists of many states which have their own rules and regulations to deal with juvenile delinquents. For example, in New York, the age limit of a juvenile is under 15 years old and the lowest age limit is six years old which is in North Carolina. Children who fall under the age category of thirteen to eighteen years old are considered irresponsible and have the possibility to get penalized depending on the context and the defense the juvenile gives on why he committed the misconduct. In June 2012, The Supreme Court of the United States of America gave a judgment that a juvenile who is sentenced for life cannot be deprived the opportunity of parole as it would be undemocratic.

England and Wales

The juvenile justice system is particular regarding reasonable trial and treatment to the juveniles. In these countries, the age limit of a juvenile is ten years old as they feel that children who below the age of ten years do not have the mental capacity to commit a crime. There is a separate Youth Court, where the trial of the juvenile is taken place in order to keep them aloof from adult suspects in the criminal court of law in the course of questioning. Children who are above the age of fifteen, maybe given confinement or sentencing in a young offender's institution. In the youth court, both offenders and

neglected children are taken care of. Juveniles aging from 10-14 years who are involved in serious are prosecuted in the Crown Court and may be given the retribution like a grownup.

Italy

Article 97 of the Italian Penal Code articulates that an individual below the age of fourteen who has committed a felony will not be penalized. A juvenile who is over the age of fourteen but not eighteen will be punished for committing a crime as it is assumed that they do have the criminal intent to commit crime, and must be punished for it. The Italian court also stated that minors can be disciplined like an adult with certain decreases if required. Juveniles who have not turned sixteen years old, who have committed a crime can be sent to prison for maximum a year. Juveniles falling under the age group of sixteen to eighteen will be sent to jail for a maximum time period of two years.

China

China follows the doctrine of the law on the protection of minors. The age limit of juvenile in China is fourteen years old. The law makers follow a stringent policy in the trial of these juvenile offenders, as they hold sixty percent of the juvenile delinquents in prison and the remaining in the phase of trial. Delinquents under the age of fourteen are handled by the organization's principal for child care, as denoted in the Child Welfare Law of China.

Pakistan

In the Pakistani law, a juvenile who is yet to attain the age of fifteen can be condemned with detention less than ten years and the offence will be deliberated in the classification of bailable offence. In a situation of a juvenile above the age of fifteen years has been detained for committing an atrocious crime or of public concern, a bail will not be approved in any circumstance. According to the CRPC of the Pakistani law, a child below the age of 15 will not be penalized or given any kind of sentence nevertheless will be dealt with a restorative process.

Although different nations have adopted their unique style of practicing the juvenile justice system, the one problem among few of them is that it is more pertinent in model than in practical terms which needs to be considered and reevaluated judiciously.

CRITICAL ANALYSIS OF THE JUVENILE JUSTICE ACT OF 2000 AND 2015

Juvenile Justice (Care and Protection Act) was introduced in 2000 and was applied throughout the country except in the state of Jammu and Kashmir. This act was grounded on many provisions, including international ones also like the provisions of the constitution of India, the United Nations Rules for the Protection of Juvenile Justice, the Beijing Rules of 1985 and many more.

The Juvenile Justice Act emphasizes on the care and protection of children and fulfilling the needs of the juveniles at their best interest. The children (boys and girls) need to be under the age of 18 years to fit into the jurisdiction of the JJ Act. The Juvenile Justice Act is also titled as the Reformatory Act, deals with two types of children, one being in conflict with law and the other being the children who are unkempt who need care and protection. For the abandoned children, a child's Welfare Committee is set up, instituting of a chairman and 4 members in the Committee, out of which one member must be woman. A Juvenile Justice Board is set up for the children in conflict with the law, constituting three members in the board. It consists of a chairperson and two social workers, and at least one should be a woman. The provisions

regarding children in conflict with the law is specified in the third chapter of the module.

This act mentions various institutions which benefit the juvenile delinquents such as the observation homes, children's home where the neglected children are kept and taken care of appropriately. Special homes, in which juveniles are kept in case involved in conflict with law. The purpose of after care organizations is to take care of the children who have been discharged from children's home.

Sections 23-26 the Juvenile Justice Act talks about the felonies committed by a person against a juvenile such assault, physical harm or hire a child in any type of work, the rest are considered as non-bail able offences.

But what were the major setbacks in this act? The Juvenile Justice Act does not take care of the emotional and psychological desires of the juvenile, as mental health is just as significant as physical health. There is no flexible process for the punishing of a juvenile. The maximum amount of sentence given to a juvenile committing an offence for instance say armed robbery is the same for a rapist or a serial killer, as long as both the offenders are under the age of eighteen years, which does not seem like a rational decision, and this is one of the severe problems in the Juvenile Justice Act of 2000.

THE JUVENILE JUSTICE (PROTECTION AND CARE) ACT OF 2015

The Government even after facing strong opposition and condemnation from various sections of the society passed the Juvenile Justice (Care and Protection of Children) Act, 2015 which will now allow children in the 16-18 age group to be tried as adults if they commit heinous crimes.^{viii} A bill was pending in the Lok Sabha and Rajya Sabha but was yet to be passed by the parliament. The Bill was not get majority vote, but succeeded to get passed. The Juvenile Justice Act had to undergo major amendments due to the famous Delhi Gang Rape case of 2012 due to public outcry and demand, as in this case a minor was involved in the ruthless rape, who was punished frivolously which wasn't justified because of his age.

Regardless of the public call, even a few esteemed members of the parliament wanted certain modifications in the act and was against the contentious question of treating the juvenile delinquents of age 16-18 years like adults for delinquencies such as rape. It is essential to focus on the rehabilitation of the juvenile than the reprimand, therefore it was required to assess the act properly and examine the provisions of the existing act.

One of the numerous amendments, was that any juvenile who is involved in delinquency will be sent for primary assessment for at least one to three months. The primary assessment is not a trial the juvenile will be facing, but it is a precautionary step to evaluate if the child has competence to commit a crime. As earlier mentioned, the juvenile justice act consists of Juvenile Justice board, will now onwards comprise specialists like sociologists and psychologists to determine whether a juvenile of the age of 16-18 years should be penalized like a grownup or not. A sub clause was added in the provisions of the act which was concerned to fair trial that the necessities of the juvenile should be taken care of in a child friendly atmosphere. The accounts of the case in which the juvenile is convicted for will be removed once the case gets terminated, but not in the case of a heinous crime.

In the circumstance of adoption, the biological parents of the child get a time period of three months instead one month to rethink about their decision of putting their child for adoption. The Juvenile Justice Act of 2015 also familiarized the western concept of 'foster care' in India. There were changes concerning the after care of a juvenile, once he/she has left institutional care, the juvenile can get the monetary funding more than one time. Children who are found abandoned by

any foster care or children's home can keep the child in custody for sixty days instead of thirty days before putting up the child for adoption. Just like any other police force, there will be a special unit set up for juveniles and special training will be given to these officers handling these juvenile delinquents. In conclusion the act will give a demarcated description regarding the legislation, offences, and retributions, and the procedures for each group.

This act endorses the detention and trial for juveniles in a criminal court if they are in conflict with the law. There was a parliamentary standing committee which was set up by a fellow of the BJP who studied the bill in detail and said that treating juveniles of 16-18 years as adults and penalize them as an adult would be undemocratic. The juvenile would be treated as an adult which would also violate international norms of human rights. The act said that if the juvenile has committed a heinous crime, he/she would be confined to a place of safety which is essentially jail, during and after the conviction. There was also a study conducted by the National Campaign to reform State Juvenile Justice System of the United States of America, in which it was found out that juveniles have the inclination to compel to another crime after being released from prison. Henceforth an enquiry was raised that is the juvenile justice system unconstitutional and a different approach should be implemented in the dispute of juvenile delinquency in a humanitarian method.^{ix}

SUPREME COURT'S POINT OF VIEW

The Apex Court of India issued a public interest litigation on the eighteen of January 2013 to the central government seeking a plea to amend the Juvenile Justice Act. A bench of three judge was set up to look into the matter consisting of Chief Justice Altamas Kabir, Justice SS Nijjar and Justice Chelameswar.

After evaluating the petition, it was overruled as they understood that only two percent of crimes are committed by youngsters and Juvenile Justice Act need not be amended as it follows the principles and conventions of international organizations like the United Nations. The bench pointed out that a child will be treated as a juvenile till he has attained the age of 18 years, and the debatable provision of treating a juvenile of 16-18 years of age as an adult in case of a heinous crime will not be modified as it has been understood and assessed meticulously by the government. The Bench gave a clear clarification on the subject of a juvenile guilty for a heinous crime could be permitted to go free after reaching the age of 18 but if the juvenile will be turning 18 years within a year, will still go to prison for three years at least.

In conclusion they described the juvenile justice system of India a recuperative one instead of a punitive one, by providing these children another chance to their mistake, befitting the best interest of the adolescent as well as the people.

CONCLUSION

The legal systems across various nations believe that juvenile justice system is a scheme to safeguard the society by executing a system that concerns the juveniles who are gradually entering their adulthood. The law makers believe that the adolescents who are involved in criminal activity like a grown up is less responsible and can learn from their past faults and move on in life. Therefore, law makers have generated a judicial system which deals with these juveniles only and not the regular judicial system for adult criminals. There has been an observation that nations which are in the developing stage have a greater threat to delinquency rates.

Decreasing the age limit of a juvenile delinquent is not the permanent answer to the concern of juvenile delinquency. Seeing Nirbhaya Case as a complete and solitary purpose and also the ethical basis and justification to decrease the age of Juvenile from eighteen to sixteen and thereby instigating the Juvenile Justice Act of 2000 to experience

such radical and intense changes is only a pitiful presentation of social biases by the government of India.

The purpose of a juvenile justice system is to give maximum justice to the juveniles by befitting his best interest and working for his wellbeing and not scrutinizing the penalties for which he has been detained in the court of law. It should give emphasis on the feature of restoration and must differentiate itself from the justice system for criminals.

It should shift from focusing on decreasing the age limit of the juvenile, and an effort should be made to evaluate the source of the problem, in other words the root of juvenile delinquency. Supporting such children with emotional, social and physical needs will be way to prevent juveniles to commit such crimes. Restoration is what these juveniles need, as a replacement for punishment. As I have stated previously is that failure of the juvenile justice system is the lack of implementation and not the existing Juvenile Justice (Care and Protection) Act.

Here are the subsequent recommendations to improve the scenario of the juvenile delinquency.

- The juvenile justice board which is an indispensable fragment of the juvenile justice system which should work with the local institutions concerning the welfare of a child to monitor the neglected and abuse children meticulously to improve the efficiency of the system.
- Since there are different kinds of crimes, which are committed by juveniles. A better idea would be not to keep the age limit the same for each crime. Like other countries like France, China, Italy and the United States of America have different age limit for the degree and category of crime, so should India which would be a reasonable concept.
- Each member of the juvenile justice system should obtain an extreme and specialized training in child welfare and psychology to handle such kind of cases to comprehend the development of the juvenile in a better way.
- A case of a juvenile should not be transmitted to an adult court, a social worker and a psychologist must be with the police officer while investigation for the wellbeing of the child.
- The Juvenile Justice Act should be executed and must be monitored sternly, hence it is the responsibility of the government to ensure that the act is implemented by the required authorities.

In the past we have experienced that the introduction of such strict laws amongst criminals and the society has just led to more hatred and injustice. To acquire an improved system, one should be following the unique and empathetic attitude towards juveniles to deal with the controversial issue of juvenile delinquency, and the in the term juvenile justice system, the main focus should be on the word 'justice' for the juveniles.

REFERENCES

1. <https://www.nap.edu/read/9747/chapter/3#23>
2. <https://www.indiatoday.in/india/story/then-juvenile-is-now-a-cook-ngo-official-975490-2017-05-05>
3. <http://researcharticles.com/index.php/peer-influence-and-juvenile-delinquency/>
4. https://www.academia.edu/27293306/Research_Paper_on_Comparative_Study_Of_Juvenile_Delinquency
5. <http://criminal-justice.iresearchnet.com/crime/juvenile-delinquency/>

6. <http://ignited.in/a/57753>
7. <http://www.legalservicesindia.com/article/626/Juvenile-delinquency.html>
8. https://www.law.cornell.edu/wex/juvenile_justice
9. <https://www.nap.edu/read/9747/chapter/7#156>
10. [https://www.advocatekhaj.com/library/bareacts/juvenilelaw2016/index.php?Title=Juvenile%20Justice%20\(Care%20and%20Protection%20of%20Children\)%20Act,%202015](https://www.advocatekhaj.com/library/bareacts/juvenilelaw2016/index.php?Title=Juvenile%20Justice%20(Care%20and%20Protection%20of%20Children)%20Act,%202015)
11. <https://updatepublishing.com/journal/index.php/rrst/article/view/1038>

ⁱ Edward H. Sulken, (1975), 'Misconception About Juvenile Delinquency, Journal of Criminal Law, Criminology and Police Science', Vol. 46, No. 6, pp. 833-836

ⁱⁱ 1 See the Black Dictionary of Law

ⁱⁱⁱ <https://blog.ipleaders.in/juvenile-delinquency-related-legislations-india/>

^{iv} See 18 U.S.C. § 5031.

^v The young delinquent, (1969), Univ. of London Press, p. 19

^{vi} Ahuja Ram (2000), 'Criminology', Rawat Publication, Jaipur, p. 114

^{vii} Kaldate, 1982

^{viii} <http://indianexpress.com/article/india/india-news-india/new-juvenile-justice-act-to-come-into-force-fromtoday/> (Accessed on, 28th Sept, 2017)

^{ix} <http://xaam.org/tag/gs-2/page/8?print=pdf-search> (Accessed on 12th October, 2017)