



Research Paper

## Old Enough to Commit a Crime: Need to Revisit to Juvenile Justice System

Dr.S.Krishnan<sup>1</sup> and Mr. Gaurav Soni<sup>2</sup>

### ABSTRACT

*In our society, juvenile offenders are expanding step by step and juvenile delinquency crime is one of the consuming issues in everywhere throughout the world. There is a pattern of increment in juvenile crimes world-over, with increasingly more inclusion of the young in fierce crimes. India indicates comparative patterns of expanding rate of rough crimes perpetrated by the juveniles. It is an intense worry for the country and answers for end the issue should be looked for all around cautiously. Indian legal system and legal executive has reacted to these patterns and has acquired a few amendments the laws relating to juvenile justice in India. This paper manages authentic foundation of law on juvenile justice, need of amendment in juvenile law.*

**KEYWORD:** Juvenile Law, Juvenile Offenders, Juvenile Delinquency, Violent Crimes, Indian Legal System

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### I. INTRODUCTION

In when the basic common idiom 'kids not acting their age' has an alternate meaning through and through, the laws with respect to delinquency have all of a sudden been pushed to the spotlight. On the shocking night of the 22nd of December, 2013, a youthful paramedic was assaulted and damaged. The most severe culprit among the evil presences was a minor at the season of the commission; making him according to law, not develop enough to reason his actions and along these lines be let off effectively and setting off the country's burdens and articulations into one of down and out heresy. The episode has not gotten satisfactory examination by the rule of law as the decision in State v Ram Singh and Ors has diminished the one juvenile in the gathering of the six culprits. In the light emission where one side propounds the tolerance on minors as an order for a socialized society, the other completely requests a retributive reconstruction likening to the offense executed. For those juveniles who perpetrate even the most boorish of crimes, Indian law pads the punishment by making the greatest sentence to be of just three years, that as well, in a change office. Nirbhaya was only the tipping point; there have been several occurrences when children according to law have submitted acts shameful of being limned. Children are the stone of any country on which it's future is fabricated. They become the pioneers of the nation, the makers of national riches, who care for and ensure the human network of the land to which they are established. These children over the world create at various rate and create distinctive world-see. They increment their capacity to think abstractly and build up their own perspectives with respect to social and political issues. They create capacity to enjoy long haul – arranging and objective setting. There is likewise a propensity of making examination of self with others. They long for independent character and freedom from guardians. This is the age when peer impact and acknowledgment turns out to be significant. They additionally create solid sentimental/sexual thoughts, and will in general show guilty pleasure in Love and long haul relationships. Meaning of Juvenile According to the Juvenile Justice Act, 2000-"A juvenile is the individual who has not finished 18 years old and henceforth Juvenile Delinquency alludes to hostile to social or illegal conduct by the children. There are numerous reasons like family condition, mental confusion, social disorder and so forth in view of which a kid perpetrates a delinquency and he is known as juvenile delinquent. " The

<sup>1</sup> The Writer is an Associate Professor in Seedling School of Law and Governance, Jaipur National University, Jaipur.

<sup>2</sup> The Writer is a 2<sup>nd</sup> year student of BALLB in Seedling School of Law and Governance, Jaipur National University, Jaipur.

word juvenile delinquent is characterize as a youngster who routinely violates the Law, extraordinarily someone over and again accuse of the counter social conduct in this manner those offense carried out by grown-up and culpable which when perpetrated by children younger than 18 are meant as juvenile crimes. In India the juvenile are kept in uncommon home and are not culpable like grown-ups. They are not treated as crooks since we pursue reformatory hypothesis. Such children are kept in home and they are given all their fundamental needs and furthermore given training.

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due to which a youngster carries out a delinquency and he is known as juvenile delinquent. " The word juvenile delinquent is characterize as a youngster who constantly infringes upon the Law, uniquely someone over and over accuse of the counter social conduct in this way those offense perpetrated by grown-up and culpable which when carried out by children younger than 18 are indicated as juvenile crimes. In India the juvenile are kept in unique home and are not culpable like grown-ups. They are not treated as culprits since we pursue reformatory hypothesis. Such children are kept in home and they are given all their fundamental needs and furthermore given training.

### **HISTORY OF JUVENILE LAW IN INDIA**

In India, the primary legislation treated those children perpetrated crime was the Apprentices Act, 1850. It secure children younger than 15 years found to have submitted trivial offenses will be limited as apprentices. After that the Reformatory Schools Act, 1897 shaped which gave that children up to the age of 15 years rebuff to detainment would be sent to reformatory home. From that point with an intend to give rehabilitation or assurance to disregarded or delinquent juveniles, our Parliament enacted the Juvenile Justice Act, 1986. It was an Act which brought uniform system all through the country. Section 2(a) of the Act characterized the term 'juvenile' as a "kid who has not accomplished the age of 16 years and a young lady who has not achieved the age of 18 years". Later on the Parliament enacted the Juvenile Justice (Care and Protection) Act, 2000 which raised the age bar to 18 years for both young lady and kid.

### **PRESENT LEGISLATION**

The Juvenile Justice (Care and Protection of Children) Act, 2000 is the essential legal structure for juvenile justice in India. The act accommodates an uncommon methodology towards the prevention and treatment of juvenile misconduct and gives a structure to the security, treatment and rehabilitation of children in the domain of the juvenile justice system. This law, got consistence of the 1989 UN Convention on the Rights of the Child (UNCRC), revoked the prior Juvenile Justice Act of 1986 after India marked and confirmed the UNCRC in 1992. This act has been additionally altered in 2006 and 2010. In the wake of Delhi assault (16 Dec 2012), the law endured an across the country analysis inferable from its defenselessness against crimes where juveniles get engaged with terrible crimes like assault and murder. In 2015, reacting to the public feeling, both the places of parliament in India further revised the bill that brought down the juvenile age to 16 and proposed grown-up like treatment for juveniles blamed for terrible crimes. The lower house, for President Pranab Mukherjee's consent on 31 December 2015.

### **PHILOSOPHY OF JUVENILE JUSTICE**

Juvenile justice is predicated on the concept that since minors vary from adults, criminal justice should be approached differently. Juvenile justice recognizes that juveniles are still undergoing emotional, intellectual, and social development stages. As a result, they may be unaware of the full effects of what they are doing. Rehabilitating juvenile offenders and deterring future criminal activity are the two main objectives of juvenile justice. The system prioritizes family support, therapy, and education to accomplish this aim. The intention is to assist juvenile offenders in becoming contributing members of society rather than to penalize them. The fundamental objectives of the juvenile justice system include skill development, reintegration, rehabilitation, addressing treatment needs, and the effective reintegration of young people into society, in addition to ensuring public safety. Compared to the adult criminal justice system, the juvenile justice system has a far more rehabilitative stance. For a youth case to be considered successful, it must be possible for the young person to grow from the experience without experiencing the extreme conditions of adult prison, change their future course of action and decisions, and avoid future interactions with the juvenile or criminal justice systems.

## **THE AGE OF CRIMINAL RESPONSIBILITY**

The age of responsibility has been fixed at different levels in different Statutes, even in our country. The Census of India, 2011 defines children as persons under the age of 14 years, similarly most Government programs are targeted at children below the age of 14 years. Under the Indian Majority Act, 1875 a person has not attained majority until he or she is of eighteen years of age. According to Article 21 (a) of the Indian Constitution all children between the ages of six to fourteen should be provided with free and compulsory education. Under Article 24 and 51-A(k) of the Constitution of India, the age of child has been kept 14. Under Article 326 of the Constitution of India the age of 18 has been fixed to be registered as a voter. The child has been defined differently for different purposes under various laws. Section 82 of the Indian Penal Code, 1860, says that "nothing is an offence which is done by a child under the age of 7. Under Section 83, the age of criminal responsibility is raised to 12 years if the child has not attained the ability to understand the nature and consequences of his or her act. The Prohibition of Child Marriage Act, 2006 says that child means a person who if a male, has not completed 21 years of age and if a female has not completed 18 years of age. One of the Condition for the solemnization of Marriage under Section 5 of the Hindu Marriage Act, 1955 is that the bridegroom must have completed the age of twenty-one years and the bride the age of eighteen years at the time of the marriage. Section 6 of the Probation of Offenders Act, 1958, provides that when a person under 21 years of age is found guilty of having committed any offence punishable with imprisonment (but not with imprisonment for life), the court, by which the person is found guilty, is required not to sentence him to imprisonment unless it is satisfied that, having regard to the circumstances of the case, including the nature of offence and the character of the offender, it would not be desirable to deal with him under Section 3 or Section 4 of the very same Act, and if, the Court passes any sentence of imprisonment qua the offender, it shall record its reasons for doing so.

There often arises a confusion between the 'age of criminal responsibility' and the 'age of juvenility'. The Minimum Age of Criminal Responsibility (MACR) refers to the youngest age at which a person can be formally processed under the justice system. The MACR is different in different countries and ranges from 6 years to 18 years of age. The average age of criminal responsibility is 12 years old. The use of chronological age is simple, but the actual determination of the number is more complex as it involves factors like brain development, competency, societal experiences etc.<sup>6</sup> It is indeed strange that on the one hand we speak of juvenile justice and on the other hand we feel the need to take up the issue of criminal responsibility of children. The reason for this probably lies in the fact that juvenile justice systems across the world depend on the regular/adult criminal justice system for questions of delinquency, trial process, adjudication and punishments. Concepts surrounding the age of criminal responsibility are pertinent to structure the juvenile justice system as they assist in assessing a person's mental wellness, cognitive ability, and developmental maturity.

It is seen that despite a progressive change adopted by western nations, India and other countries in Asia, continue with the old perception where the minimum age is dependent on the principles of capacity usually determined by the adult criminal justice system. Although the juvenile justice system has evolved over a period of time with the enactment of various laws, the position of age for the purpose of exemption from criminal liability remains more or less unchanged. Also seen is that the attention of claiming exclusion from the adult criminal justice system is largely focused on the teenagers of 16-18 years age group. The lack of a concerted effort to assess the concept of age of innocence and age of criminal responsibility in India has led to an inconsistent approach towards juvenile justice.

Children are qualitatively different from adults and for this reason, child and young crime are alarming. As per the Beijing Rules, legal systems recognizing the concept of the age of criminal responsibility for juveniles, should not fix the beginning of that age at too low an age level. Owing to culture, history, tradition and other factors this age varies across countries. In U.S.A., the age to determine juvenility varies from state to state, while in most of the states it is 18 years, in few it is 16 or 17 years. In U.K., a child between the ages of 10 to 18 years becomes criminally responsible for his actions. He can be tried by the youth court or an adult court as per the severity of the offence committed. In Canada, the Youth Criminal Justice Act governs the application of criminal and correctional law to those who are twelve years old or older, but younger than 18 at the time of committing the offence. Although trials take place in a Youth court, a youth may be awarded an adult sentence for certain offences and in certain circumstances. The apex court of our country i.e. Supreme Court has examined the Juvenile Justice System of other countries. Countries like Brazil, Bangladesh, Afghanistan, Bhutan and Nepal also have the age of criminal responsibility at an age lower than 18 years, varying between age of 9 to 12 years. The juvenile justice system in the U.S. is governed by three important principles i.e. judicial waiver, Prosecution discretion and statutory legislation. Thus it is clearly discernible that across the board, which includes the oldest living democracies of the United Kingdom and the U.S. as also, the societies under transition have in realization of their own requirement deviated from keeping the age of juvenility at 18. The underlying principle that emerges from the legal structure of various nationalities is that, there cannot be a universally applicable age structure for exempting a person from criminal liability, particularly

in cases of grave offences. Even the international conventions recognize that keeping in mind the need to preserve the rights of victims, their families and the needs of the society, the reaction of the legal system may be propositional to the gravity of the offence.

Criminal jurisprudence is not static but a dynamic concept. The legislature has given serious thought to protect the rights of the victims and their family members. In the overwhelming desire of protecting the rights of the juveniles, the rights of the victims subject to violent physical and sexual assault affecting the body, mind and psychology, in many cases irreversibly, cannot be overlooked. It's not a question of the effort being retributive or reformatory in nature. The bigger issue is that law should be designed in a way that it should result in preventing crimes and maintaining the harmony in the society, in a way that no one feels threatened.

Law has to be ever changing, matching itself with the changing dimensions and needs of social life. Since it is one of the major tools to deal with and suppress the rising criminality in the society it cannot shy away from its duty lethargically on the excuse of technicalities. Everywhere in legal provisions there are exceptions, there are inherent and extra ordinary powers of the courts to do complete justice. Nothing is sacrosanct that should come in the path of justice. On the relationship between law and punishment Bentham said that if good laws were made there would be no need of a magic wand which had the power to annul them and if punishment was necessary it ought not to be remitted<sup>41</sup>. In this world of transition when children are becoming mature earlier than the traditional times, physically and mentally, thanks to the injurious junk food and all types of vulgarity displayed on the internet and the media, they have become more experimental and daring. Their psyche is getting warped precipitated by various sinister stimuli present in their social surroundings further deteriorated by peer pressure and differential association. Bentham held that it was the real punishment which did all the evil compared to the apparent punishment which did all the good. We ought them as much as possible to diminish the former and to augment the latter. In families, schools and society children should be made aware of basic knowledge of laws of their land, of offences and punishments, of the concepts that crime never pays and 'Do unto others as you wish them to do to you.' If a section of society is involved in rise in crime should it be absolved without being punished effectively on the ground of being under age? The police as well as parents and teachers need to draw on the 'Broken Windows Theory' of criminology according to which small acts of deviance if ignored can escalate into more serious and major crimes. The whole criminal justice system must ensure that crimes against women are no longer low risk even on behalf of physically immature though mentally mature actors of the civil society<sup>42</sup>.

Keeping in view the above philosophy, reasons, arguments and suggestions, finally the Juvenile Justice (Care and Protection of Children) Act, 2015 has been passed by the Parliament.

#### **CATEGORISATION OF CHILDREN ON THE BASIS OF AGE IN INDIA: THE DEVELOPMENT OF LAW**

Children or rather childhood could be sub-divided into infancy (0 to 7 years), early childhood (7 to 12 years), late childhood (12 to 16/18 years) and adolescents (16/18 to 21/22 years). The Indian Penal Code, 1860 (IPC) originally treated all children under 7 years as doli incapax and children between 7 and 12 years were presumed innocent unless proved contrary. Children between the ages of 7 to 15/16 years could be tried before the ordinary courts with the advantage of serving their imprisonment in reformatory schools. A significant change relating to the categorization of children occurred with the shifting of 'juvenile justice' from the State List to the Concurrent List under the Seventh Schedule of the Constitution of India, 1950. The now empowered central government enacted a national juvenile justice law, the Juvenile Justice Act, 1986 followed by the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJA 2000). This resulted in raising the age of the male "child" from 16 to 18 years under the JJA 2000 which was in accordance with Article 1 of the Convention of the Rights of the Child, 1989 (CRC) and the recommendations of the U.N. Committee on the Rights of the Child.

The Parliament enacted the Children Act, 1960 on the subject, introducing a sex-based definition of 'child', wherein girls till 18 years and boys till 16 years were brought within its protection. It prohibited the use of police stations or jail for children. Despite this protection, a journalist Sheela Barse found that there were 1400 children lodged in different jails in India. This was brought to the notice of the Supreme Court in *Sheela Barse v. Union of India* where the court held that different definitions of 'child' under different Acts in force in various parts of India was violative of the fundamental right to equality. It accordingly suggested that a uniform legislation be passed on the subject so as to avoid confusion and bring about equality in treatment of juveniles. The Parliament, thereafter passed the first national juvenile justice law, the Juvenile Justice Act, 1986 (JJA, 1986). Amongst the significant changes brought about by the legislation was the substitution of the term 'child' for 'juvenile'; and it was made illegal to keep girls below 18 years and boys below 16 years in police stations or jails.

After India ratified the CRC in 1992, it became mandatory to adopt a uniform cut off age of 18 years for both boys and girls as provided under the CRC. Under the JJA 2000 the ban on use of prisons or police stations at any stage of proceedings and under any circumstances was extended for children below the age of 18 years. According to Steinberg, although the human neurobiological maturity is reached at different ages ranging from 15 years to 22 years, but 18 years is treated as the “presumptive age of maturity”. This midpoint age of 18 years is the option chosen by CRC and majority of the countries around the world.

On 16 December 2012, in a heinous incident, a 23-year-old girl student was brutally gang-raped and assaulted by six men in a moving bus in New Delhi, India. She was later thrown out of the bus and eventually succumbed to the injuries. The case came to be known as the Nirbhaya case. There were five men who were arrested in the case, out of which one of them was below 18 years of age. He was a few months short of 18 years (the majority age under JJA 2000) on the date of commission of the crime. Accordingly, as per the provisions of the law, he was referred for inquiry to the Juvenile Justice Board (JJB) while the other accused were tried before a regular sessions court and punished with imprisonment and death penalty. Up until now the law had tried to increasingly protect children and move towards establishing juvenile justice. However, after this Delhi gang-rape case, and the increasing media frenzy surrounding the case, the focus shifted to the involvement of a 17-year-old in the 2012 gang-rape. The public demanded an amendment in the existing law so that juveniles between 16 to 18 years who had committed ‘heinous’ offences would be treated as adult offenders. The reasoning behind the desired change being that age should not be used as an excuse to wriggle out of harsh punishments especially in cases of crimes like rape and murder.

The JJB delivered its verdict in the 2012 gang-rape case on 31 August 2013, ordering a three-year stay in a special home for reformation and rehabilitation of the juvenile accused, in accordance with the provisions of the original JJA 2000. This again generated criticism and anger amongst the public as to the existence of the juvenile justice laws and the easy release of the juvenile offender. In response to the public outrage, the government set up a three-member committee to recommend modifications to the anti-rape laws and gender-based violence laws in India. Consequently, the Juvenile Justice (Care and Protection of Children) Bill 2014 was introduced in the Lok Sabha on 12 August 2014. Despite objections, the Bill was passed and the JJA 2015 was ultimately enforced in January 2016

## **STEPS TO PREVENTION JUVENILE CRIME**

As society isn't static, it is dynamic. Its need change with time to endure. It is right to change the as indicated by need of society, anyway we ought not send a sign in society that an individual underneath 18 years old can submit any sort of egregious acts and still pull off a minor penalty. In this way, need is to consider mental maturity time of individual and sequential age while choosing the case. As legally 2 fundamental parts of any crime is "Actus Rea" and "Mens Rea" and when the two components are demonstrated by the court of law then any individual is just indicted. Presently in the event of juvenile, the Actus Rea some portion of his offense is secured under the juvenile law Mens Rea part is never thought about, as there are no parameters to pass judgment on the equivalent. Having no parameters about the physical or mental maturity of juvenile, it has been similar to given a permit to all develop, savage kind of people younger than 18 years to perpetrate any crime. In India the meaning of kid does not have any uniformity as-Convention on the Rights of Child, 1989, Article 1, says that a kid implies each person underneath the age of 18 years. In India dominant part age is 18 however a kid work age is of beneath 14. The Constitution of India, the age is of beneath the 14 years; an individual can have consensual sex at 16 however can wed uniquely at 18 and devour liquor just when he/she turns 25. Adjacent to it laws ought to be reformatory to improve them. Accordingly, there is extraordinary need of progress.

## **CONSTITUTIONAL PROVISIONS**

The visionary Constitution producers had understood that the Children being defenseless are needing exceptional defensive treatment and the best social consideration. Exceptional Constitutional Provisions for children incorporate the accompanying: Article 15(3) empowers the State to make unique provisions for children Right to free and obligatory rudimentary instruction for children (Article 21 A) Right to be shielded from any perilous business (Article 24) The Directive Principles of State Policy further recommend that the state will coordinate its policy towards verifying that the young period of children are not manhandled and constrained by economic need to enter occupations unsuited to their age or quality (Article 39(e)) and that the children are given chances and offices to create in a solid way and in states of opportunity and poise and ensured security of adolescence and youth against misuse and against good and material relinquishment detainment prompting degeneration, is the essential point of this field of criminal justice. Juvenile justice has constitutional roots in Arts.15 (3) and 39(e) and the unavoidable humanism which talks the excessively parental worry of the State for its kid natives including juvenile delinquents. The penal laws of India, tuned in to the reformatory technique presently pervasive in cultivated criminology, needs to approach the youngster guilty party not as an

objective of cruel punishment but rather of accommodating sustenance. This is the focal issue of condemning policy when juveniles are discovered liable of delinquency. A logical methodology may demand a scan for more full material adequate to individuate the treatment to suit the criminal ailment.

### **SOME LANDMARK CASES RELATED TO JUVENILE DELINQUENCY IN INDIA**

In *Shila Barse vs Union of India* case, the Hon'ble Court said, "The offences which are minor in nature, they should send in the observation home." The concept of Juvenile Rehabilitation rather than punishment evolved from this case.

In *Narayan Chetanram Chaudhary v. State of Maharashtra* case, the appellant argued that he was a juvenile at the time of the offense, and therefore, he cannot be awarded the death penalty. The Supreme Court ruled that the appellant was already in prison for over 28 years, facing severe limitations and difficulties. The court accepted his age as 12 years on his school certificate, indicating he was a juvenile at the time of the offense. The court held that since he had already served imprisonment, and according to the Juvenile Justice (Care and Protection of Children) Act, 2015, no juvenile can be awarded the death penalty, and therefore, the lower court's order of the death penalty was invalidated.

In *Anuj Kumar vs State of U.P.*, the case where a petitioner was denied a constable post due to his past criminal prosecution. The petitioner argued that he was a juvenile under the Juvenile Justice Act, 2000, and that the charges should have been addressed under juvenile law. The Allahabad High Court ruled in his favor, stating that a juvenile's criminal records should not disqualify them from public employment if they pertain to a period when they were underage. The court issued a writ of mandamus, directing authorities to appoint Anuj Kumar to the constable post, emphasizing the rehabilitative philosophy of juvenile justice. This case highlights the importance of addressing juvenile justice in employment law.

### **JUVENILE JUSTICE SYSTEM IN INTERNATIONAL PERSPECTIVE**

"The juvenile owing to their early stage of human development require particular care and assistance with regard to physical, mental and social development and require legal protection in condition of peace, freedom dignity and security, but the international recognition of the rights of the Juvenile children came very late. Though some people think that the law has gone too far from time to time, social scientists pause to ponder over the direction in which their discipline is moving."

In Caracas, Venezuela, in 1980, the sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders laid forward five basic guidelines that it acknowledged should be addressed in a lot of rules to be taken on for the association of juvenile value to save the fundamental normal freedoms of young people in issues with the law. "The rules could then serve as a model for united national Member States in the treatment of juvenile offenders. The congress recommended that the Committee crime Prevention and Control, a standing committee of the Economic and Social Council, be requested to develop such rules."

According to UN principles and objectives, children's liberties need extraordinary security and a stable environment. The United Nations General Assembly voted to adopt an Optional Protocol to the Convention on the Rights of the Child as a consequence, believing that children's rights should be protected in accordance with the UN Charter and common freedoms laws even in the midst of war or an unfamiliar occupation. May 16, 2000, as Part of the 26th International Red Cross Red Crescent Conference in December 2000, A Child's Right to Participate in Armed Wars: Gatherings for conflict settlement should, among other things, take all possible efforts to avoid increasing Keep kids under the age of eighteen out of demonstrations that are organised. This entails raising the enrollment minimum age and restricting the number of youngsters who may really register if they are assisting a person under the age of eighteen who is in danger.

### **NEED FOR AMENDMENTS IN JUVENILE JUSTICE ACT**

Because of this pattern, legal meaning of tyke under Indian legal system went under inquiry. With pattern of inclusion of juveniles in vicious crimes in India, state intervention is required as far as making corrections and in wording acquiring new legal provisions. The new Juvenile Justice Act of 2015 took into awareness the inclusion of juveniles in intolerable crimes and drew out certain corrections. Under the new legal provisions, if an offspring of 16 years or above perpetrates a terrible crime, a starter evaluation of his psychological and physical maturity will be made by the Juvenile Justice Board. Dimension of maturity will be coordinated to his ability to submit such an offense, his capacity to comprehend the outcomes of his offense and the conditions wherein he supposedly dedicated the offense.

The Juvenile Justice Bill was presented in the Lok Sabha in 2014, after it was felt in the post-Nirbhaya case that some action must be taken against the expanding association of juveniles in the age gathering of 16 to 18 in horrifying/genuine crimes. The genuine crimes have not been in the Indian Acts as such, however they might be interpreted as meaning the class of crimes which would involve detainment for a long time or more for grown-ups. It was felt that JJ Act 2000 was flawed with usage issues, and the new bill planned to close these

escape clauses. The bill presented ideas from Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption 1993. It was set down under the bill of 2015 that the Juvenile Justice Board will choose whether a juvenile guilty party in the age gathering of 16 to 18 years ought to be treat as a grown-up. Those juveniles who carry out appalling crimes such homicide and assault (which welcome The prior Acts managing Juvenile Justice in India have had genuine execution issues (Ved Kumari, 2010) - the Bill (which turned into an Act) looked for streamline the appropriation procedure of stranded and surrendered children. Through the 2016 Act, child care has been presented, under which families can take up duties of juveniles in struggle with law, or the stranded or deserted children. The Act has made it required for all states in India to set up Juvenile Justice Board and Child Welfare panel in every single region, with at any rate one lady part ready. It additionally set out that when any youngster is found perpetrating a crime, he will be first sent for a primer appraisal of kid's ability to carry out crime (Here evaluation isn't same as preliminary).

The JJ Act has given parcel of consideration to preventive measures in controlling juvenile delinquency. Remembering the debilitating family and network control on individual individuals, the Act has accentuated on the job of family in controlling juvenile delinquency (Prakash Haveripet, 2013). Family is the most basic auxiliary and utilitarian and unit of society. As indicated by the Act, family assumes an extremely vital job in taking consideration, sustaining and securing the children. Along these lines, the children are prepared to wind up mindful individuals from society. The family wards off the children from negative behavior patterns, for example, substance misuse, watching erotic entertainment and so forth.

### **CONTEMPORARY ARGUMENTS: JUVENILE (IN) JUSTICE TO CHILDREN**

Justice isn't justice in the event that it isn't simply to the stake of value to all. On the off chance that justice is doled out venturing on the desolation and give up on children, at that point it is no justice. It is conceded that occasionally children can and do carry out awful crimes, and the facts demonstrate that the change and rehabilitation of youngster guilty parties under the juvenile justice system regularly exists to a great extent on paper. Anyway the arrangement isn't to change the law, however to guarantee it is better upheld. The absence of better infrastructural offices for juvenile homes and access to quality directing and backing for youngster guilty parties is quintessentially in charge of the present encumbrance to unhampered progression of justice. The directors and staff of perception homes and unique homes that by the uprightness of expanding the period of juvenile from 16 to 18 in the 2000 Amendment to the JJ act, an a lot bigger number of juveniles are to be suited in the lacking foundation. There are a sum of 815 remand homes crosswise made by the Justice Verma Committee in agreement with those of the kid rights activists. The shelter homes/restorative organizations and CWCs should play out the job of restoring the survivors. Rehabilitation will be the measure of accomplishment of the Juvenile Justice Act. In any case, rehabilitation while fiddling with the residue of the lacking framework that our country is swarmed with, does not profit a similar reason. The way where the Juvenile Justice Act has been executed demonstrates a total disappointment of the State. Youngster Rights Activists trust that reconstruction amid detainment and transformation without punishment are acknowledged as better ways to deal with prevention of crime, particularly on account of children. The children whenever interact with solidified offenders in jail, it would have the impact of overshadowing the improvement of the tyke, presenting him to pernicious impacts, coarsening his inner voice and distancing him from the society. However, juveniles have been compelled to live behind the bars in detainment facilities. The High Court of Delhi has given broad rules in regards to age-notices and age-examination methods that the jail experts are obliged to pursue technique with. The target of the Act is to give care to the juveniles out of luck and to secure the youngster's guiltlessness. There are various issues existent in the society that draws the degree skillet of the Act back, hence falling into the abstract yet unfriendly execution of its working, if by any means. The Ministry of Women and Children Development accuses the ineffectual authoritative adequacy of the bureaucratic setup and specifies significant escape clauses in the usage of such a rehabilitative plan. Along these lines, there is an unavoidably unsafe need to better the framework of the reformatory procedure that the juvenile justice plans to give to juveniles. The rules stated by the Supreme Court should be industriously pursued for better execution of the Juvenile Justice Act. Such legal legislation must be proclaimed for better strong use of the provisions for the advancement of the children in strife with law. Be that as it may, the absence of legitimate drafting and free provisions in the legislation itself obstruct any endeavors against the amendment of the equivalent.

### **CONCLUSION**

The views expressed by **Abraham Lincoln** are relevant to be quoted:

“A child is a person who is going to carry on what you have started. He is going to sit where you are sitting, and when you are gone, attend to those things you think are important. You may adopt all the policies you please, but how they are carried out depends on him. He is going to move in and take over your churches, schools, universities and corporations. The fate of humanity is in his hands.”

Juvenile youngster need of consideration and assurance by providing food them their essential needs through appropriate consideration, insurance, improvement, treatment, social re-combination, by embracing a tyke benevolent methodology to the greatest advantage of children. Whatever changes be made in the Act, it ought to be the enthusiasm of system dependent on reprisal and punishment or a system which is reformatory and assimilative for the juvenile guilty parties. The Juvenile Justice Act of 2016 can be viewed as a dynamic advance of the Indian government towards keeping pace with changing patterns in juvenile crimes. The intense advance under the Act on treating the juvenile wrongdoers discovered blameworthy of carrying out offensive crime as grown-ups, subject to the perceptions of the Juvenile Justice Board. The Justice Verma Committee stood firm against the bringing down of period of juveniles in struggle with law. It was seen in the report that "Any endeavour of diminishing the period of adolescence, or barring certain children from the domain of the Juvenile Justice (Care and Protection of Children) Act 2000 based on nature of the offense and age, will abuse ensures made under the Constitution and global instruments, the United Nation Convention of Rights of the Child (UNCRC)". It is to be remembered that the legal sub-system is a piece of the bigger social system. Any adjustment in the bigger entire that is the society requires changes in the constituent parts or the littler sub-sub systems. Consequently, when changes are happening in the society at a quick pace, the legal system needs to go in a state of harmony with the society. The Juvenile Justice (Care and Protection) Act 2015 has brought these changes.

An essential reform is needed and education is the indirect means, the less the parents are capable of discharging their duty, the more necessary it is that Government should make up for their deficiencies. Not only should attention be given to orphans left in indigence but also to children whose parents are not of a character to be trusted to those who have already committed some offence and to those who, being destitute of protectors and resources are a prey to all the reductions of want. These classes so neglected in the greatest number of States become in consequence the pupils of crime. To deter offences by children in future they should be send to caring residential school ensuring food, education and protection but for heinous offences they should not be let off in society untreated, unchanged and unreformed. If the State is declared *parens patriae* it should do all via laws and implementation to neutralize the social and economic forces that lead tender minds and bodies towards delinquency inclusive of focusing attention on the individuals who shows potentiality for antisocial behaviours. But this latter part cannot be fulfilled without the equal and honest co-operation of the community, schools and family. Teachers should be always on the lookout for early signs of delinquency in children and for this they should be trained to do so. Next each school should have child guidance clinic in which able psychologists and sociologist should identify the problem in children and then counsel them. Religious and moral trainings in the schools, homes and community are a good preventive also. Along with this the juvenile homes are required to be made a better place with trained staff, as the juveniles are to be kept out of jails and the Supreme Court<sup>79</sup> has also strongly condemned the detention of children in jail observing that the vicious atmosphere of the jail had a highly injurious effect on the mind of the child and that if the State Government had not got sufficient accommodation in its juvenile homes, he should be released on bail instead of being incarcerated in jail.

It is also to be kept in mind that in the sweeping compulsion to protect the rights of the juvenile in conflict with law, the needs of the society and the victims and their family to be protected and given justice cannot be lost sight of. It may also be the case that the victim may also be a child directly facing the brunt of the violent act or he may be an orphaned child, as a result of the offence committed by the juvenile. Laws in the ultimate analysis should lead to an organized social order, but not as a tool to protect the conscious perpetrators of crime, who beforehand have planned their action in consideration of the legal protection or discover the advantage at the cost of the victim, who also has the fundamental right of dignified life and personal liberty.

In view of the international instruments dealing with juvenile, the law on the subject in various countries, scheme of the law relating to juvenile offenders in our country and growing concern for increasing incidents of heinous crimes committed by juveniles, the present law relating to juvenile can be said to be expedient and fully justified. The rights of women and girls against heinous crimes are as important as the rights of juveniles of care, protection and rehabilitation for the broader justice to society. In course of time, the development of science and technology has affected the degree of maturity of juveniles also and a legal deterrence for the protection of other members of society from heinous crimes committed by juveniles has become inevitable. By treating juveniles between age group of 16 to 18 years as adults for heinous crimes, the present law establishes harmony between two conflicting interests – the interests of the juveniles and the interests of the victims of heinous crimes committed by juveniles. Thus it meets the needs of the society

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