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JUVENILE JUSTICE SYSTEM: A LEGAL AND SOCIO-ECONOMIC ANALYSIS OF JUVENILE DELINQUENCY

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I. ABSTRACT

'Juveniles' understanding and maturity are not on par with 'adults', so they require a separate legal system. As some of the most vulnerable members of society, children need special care and attention. The juvenile justice system not only offers juveniles a second chance but also provides opportunities for rehabilitation and reform. This paper discusses the history of the juvenile justice system, its various amendments and landmark cases, the socio-economic factors and other causes affecting juveniles, the processes of reformation and rehabilitation, how the juvenile system operates, and the challenges it faces, relevant data on juveniles and the justice system, and issues with the functioning of the JJ Board and police investigations. Since the future of the country depends on the physical and mental health of its children, it is the duty of the state to provide children with proper care and protection. It is essential to address fundamental problems, including sociological, psychological, and economic difficulties, to effectively rehabilitate and reform young people.

II. KEYWORDS

Juvenile, Socio-economic, Rehabilitation, JJ Act, Amendments.

III. INTRODUCTION

A. Definition and Meaning

Juvenile word comes from the Latin word "juvenilis" which means 'youthful'. "Juvenile" means a child below the age of 18 years³ (section 2(35) of the Juvenile Justice (Care and Protection) Act, 2015)⁴. Every member of society is greatly impacted by

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³ Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

⁴ Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

juvenile delinquency, which is a complicated social issue that also has an impact on the social structure. Persistent mischievousness, antisocial behavior, disobedience, and criminal behavior by young individuals who are not old enough to be legally recognized adults are all violations of the law.

One of the biggest problems facing society and the government is providing children with the care and protection they need. Numerous children have committed crimes as a result of socioeconomic conditions, which has increased the number of children classified as delinquent. A collection of behaviors that deviate from the norms and values of the dominant social group is referred to as delinquency. These behaviors essentially contravene established criminal codes and laws and diverge from societal norms.

Young persons who have committed or are suspected of committing a crime are considered juveniles because they are biologically immature or underdeveloped. It is considered that juveniles' understanding and maturity are not on par with adults, so a separate legal system is provided for them, as it would be unjust and contrary to the principles of natural justice to treat them under the same legal system as adults. Juvenile justice systems are designed to provide social and legal justice to neglected and delinquent children.

B. Needs for the Juvenile Justice System

This system provides care, protection, rehabilitation, improved socialisation, reformation, and intervention to young offenders rather than punishment. The juvenile justice system places a strong emphasis on minimizing legal interventions to protect children from the harmful effects of criminalization, penalization, stigmatization, and influences that may lead to further criminal behaviour. The goal is to prevent juveniles from reoffending and to help them become productive members of society. This system gives juveniles a second chance to transform and become better versions of themselves.

As it is said by Oscar Wilde, "Every saint has a past, and every sinner has a future."⁵ Juvenile justice systems differ from adult criminal justice systems by focusing on providing broader support, such as education, counselling, job opportunities, rehabilitation, and family assistance to help juveniles address the underlying factors contributing to their criminal behaviour.

C. Theories: Why are children drawn to criminal activities?

Agnew's General Strain Theory (GST), developed by sociologist Robert Agnew in 1992, this theory asserts how social and psychological pressures can lead adolescents to engage in criminal behavior. According to Agnew, three major sources of stress that can lead someone to illegal activity are

- When the means and objectives are not aligned.
- loss of something positive or important in one's life
- presence or experience of something harmful⁶.

Social Disorganization Theory (From Shaw and McKay's (1969) perspective), family, peer groups, and neighborhood institutions are essential to a child's development and socialization. A child's character, personality, and behavior are influenced more by their social relationships and physical environment. This theory asserts that certain environmental conditions, like unemployment, poverty, and a larger population in a particular area, are reasons behind social disorganisation. These factors are associated with higher crime rates, as people in these environments may become influenced by what they see and experience around them.⁷ And other theories cite factors such as

⁵Oscar Wilde, *The Soul of Man Under Socialism* (1891), baba quote, <https://www.buboquote.com/en/quote/1952-wilde-every-saint-has-a-past-and-every-sinner-has-a-future>.

⁶William EThompson, Jack EBynum, *Juvenile Delinquency A Sociological approach*, [https://www.google.co.in/books/edition/Juvenile_Delinquency/JPesDAAAQBAJ?hl=en&gbpv=1&dq=juvenile+delinquency&pg=PA81&printsec=frontcover,\(ebook\)](https://www.google.co.in/books/edition/Juvenile_Delinquency/JPesDAAAQBAJ?hl=en&gbpv=1&dq=juvenile+delinquency&pg=PA81&printsec=frontcover,(ebook)).

⁷zuletzt aktualisiert, von Christian Wickert, Clifford shaw, henry Mckay, *Social disorganization theory (Shaw & McKay)*, soztheoNovember,2023,<https://soztheo.de/theories-of-crime/social-disorganization/soziale-desorganisation-shaw-mckay/?lang=en#:~:text=Social%20disorganization%20theory%20assumes%20that,actions%20by%20a%20certain%20environment>.

poor parenting, peer influence, disrupted families, and lack of academic achievement as contributing reasons.

D. Research Questions

1. Whether the juvenile justice system effectively address the problems of juveniles and work to reform and reintegrate them into society?
2. Whether the juvenile justice system is addressing socio-economic factors responsible for juvenile delinquency?

IV. LEGAL FRAMEWORK

A. History of Juvenile Justice System:(some pertinent changes from 1800 to 2015)

Juveniles faced the same trials and penalties as adults under English Common Law. The founding of the New York House of Refuge in the late 1800s was one of the major developments in juvenile justice. Established in 1824, the New-York House of Refuge opened on January 1, 1825.⁸ It was the first institution in the United States dedicated to the care and rehabilitation of delinquent juveniles. The New York House of Refuge offered various services to juveniles, including education, employment, proper care, education, religious instruction, vocational skills, and recreation.

It is widely regarded as the birthplace of the juvenile justice system. In 1878, Massachusetts enacted the first law permitting the separate detention of juveniles, marking the beginning of juvenile justice legislation in the United States. The first separate juvenile court was established in Cook County, Illinois, in 1899.⁹ The idea behind the establishment of the juvenile court was to serve the best interest of the child and act as 'parens patriae,' meaning the legal protector of children who are unable to protect themselves.

In India, in 1920, the first juvenile court was established in Bombay under the ambit of the Children Act of 1920. With a view that individuals below 16 years require

⁸DeTardo-Bora, Kimberly. A, House of Refuge, wiley online library (NOV20,2017), <https://doi.org/10.1002/9781118524275.ejdj0147>.

⁹Nathan Mahr, Juvenile Delinquency | Definition Types & History, study.com (Dec17,2024,4:45PM) <https://study.com/learn/lesson/juvenile-delinquency-overview-history-laws.html>.

different care and protection., Even before the introduction of the first Juvenile Justice Act, 1986, in India, Indian courts had adopted a rehabilitative and reformatory approach to juvenile crimes. In *Prabhavti v. Emperor*¹⁰, it was observed that young children should be granted immunity from imprisonment and, if possible, be released into the care and protection of their parents.¹¹

Before 1986, the Apprentices Act of 1850 was the first law in India addressing children in conflict with the law. It allowed courts to treat children who committed minor offenses as apprentices rather than sending them to prison. It provided that children aged 10 to 18 years, convicted by the courts, should receive vocational training to support their rehabilitation. The second law concerning juvenile offenders was the Reformatory Schools Act of 1876. The law stipulated that children under 15 years of age, who were sentenced to imprisonment, could be sent to reformatory schools rather than prisons.¹²

Since every state had its courts to keep kids out of the adult criminal justice system and offered separate residential facilities for kids who were in trouble with the law, but only a few states had laws specifically designed to deal with delinquent kids, the Indian government passed the Children Act 1960. The Children Act of 1960 forbade the incarceration of children under any circumstances and addressed the care, protection, welfare, education, and rehabilitation of neglected and delinquent children.

A children's court for delinquent children and a child welfare board to handle matters involving neglected children were established by the Act as distinct judicial organizations. Additionally, it established observation houses for kids awaiting trial, and efforts are being made to expand children's homes and special schools to guarantee the growth of the child's individuality.¹³

¹⁰ *Prabhavti v. Emperor* is AIR 1921 Oudh 178(India).

¹¹ Ajayy Wilson B, Role of the judiciary in shaping Juvenile Justice System in India, Live Law.in, (Oct,8,2024,5:30 AM) <https://www.livelaw.in/articles/role-judiciary-shaping-juvenile-justice-system-india-271944>.

¹² Regressive step Juvenile Justice Amendment Act, Frontline, (Jan,06,2016,12:30PM) <https://frontline.thehindu.com/cover-story/regressive-step/article8068317.ece>.

¹³ Union Of India, Children Act, 1960 <https://indiankanoon.org/doc/1973522/>

However, the Act applied a gender-biased definition of a child, considering boys under 16 and girls under 18 as children. Subsequent state laws followed similar patterns, but definitions of 'child' varied across states, leading to unequal treatment of juveniles based on different interpretations.

In *Munna and others v. State of Uttar Pradesh and others*¹⁴ The Court expressed concern that the goal of rehabilitation is undermined when juveniles are incarcerated, as they may be exposed to hardened criminals, increasing their chances of reoffending. Therefore, the Court emphasised that the State Government must effectively enforce the provisions of the Uttar Pradesh Children's Act, ensuring that offenders under the age of 16 are held in children's homes or places of safety, rather than prisons.¹⁵

In landmark case of *Sheela Barse and ors. V. Union of India*,¹⁶ A social worker filed a petition asking the court to free the children under the age of sixteen from custody. The Supreme Court sent out a notice and instructed each district's judicial magistrate to visit each jail and shelter house in their district and provide a report.¹⁷ The Supreme Court observed that if a child is considered a national asset, it becomes the State's responsibility to ensure the child's full personality development. For this reason, all laws concerning children emphasize that a child must not be kept in jail. Beyond this legal requirement, it is evident that a jail is not an appropriate place for a child.

Under no circumstances should children be kept in jail. If a State Government lacks sufficient accommodation in its remand homes or observation homes, children should be released on bail rather than being confined in jail. It was judged that the trial of children should be conducted in juvenile courts rather than criminal courts. It was recommended that for the trial of children under 16 years of age, the Uniform Children Act be implemented across India, replacing individual State-level Children Acts. The following directions were issued by the Supreme Court -

¹⁴ *Munna and others v. State of Uttar Pradesh and others* (1982)1 SCC545.

¹⁵ Ajay Wilson B, Role of the judiciary in shaping Juvenile Justice System in India, Live Law (Dec.18,2024,6:19 PM), <https://www.livelaw.in/articles/role-judiciary-shaping-juvenile-justice-system-india-271944>.

¹⁶ *Sheela Barse V. Union of India* AIR 1986 SC 1773.

¹⁷ *Sheela Barse V. Union of India* AIR 1986 SC 1773.

All states were instructed to implement the Children's Act, 1960, in their respective territories and ensure its effective enforcement. Every prison in the country was directed to adhere strictly to the jail manuals. Additionally, District and Sessions Judges were required to visit prisons at least once every two months.¹⁸

After this Landmark Case Juvenile Justice Act,1986 (hereinafter JJAct,1986) came. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules,1985) was established with the aim of protecting children from the criminal justice system and ensuring detention is used only as a last resort and for the shortest possible period.¹⁹ The JJAct,1986, was enacted in conformity with the Beijing Rules to avail a uniform juvenile justice system throughout the country, which should make adequate provision for dealing with all aspects in the changing social, cultural, and economic situation in the country.

JJ ACT 1986 divides Juvenile into 'Delinquent juvenile's a juvenile who has been found to have committed an offence and 'Neglected juvenile' who are juvenile i.e. Children who are begging or is found without having any home, without any ostensible means of subsistence, destitute or has a parent or guardian who is unfit or incapacitated to exercise control over the juvenile, Lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution, or, Who is being or is likely to be abused or exploited for immoral or illegal purposes.

The JJ Act 1986 was repealed, and the Juvenile Justice (Care and Protection of Children) Act 2000 was passed, taking into consideration all the international standards prescribed as per the Convention on the Rights of the Child (CRC). In this act, juveniles were classified into juveniles in conflict with the law and children in need of care and protection. This act changed the age of juveniles from 16 to 18 years in the case of males.

¹⁸ Monesh Mehndiratta, Landmark juvenile supreme court cases in India, (Dec18,2024,5:55PM) <https://blog.iplayers.in/landmark-juvenile-supreme-court-cases-in-india/#:~:text=Salil%20Bali%20v.&text=The%20petitioner%20urged%20that%20it,group%20of%2016%2D18%20years.>

¹⁹ Sushant Agarwal, critical analysis of juvenile justice act,2000 (Dec.18,2024,3:03 PM) [https://blog.iplayers.in/critical-analysis-of-juvenile-justice-act-2000/.](https://blog.iplayers.in/critical-analysis-of-juvenile-justice-act-2000/)

JJ Act 2000 was repealed by JJ ACT 2015 after the public outrage at the heinous and brutal incident of Delhi gang Rape Case (Nirbhaya case). In December 2012, which one of the offenders was seventeen and a half years of age and was the main culprit? Under the JJ Act 2000, the maximum punishment that could be awarded is 3 years of detention in a remand home, irrespective of the gravity of the offence. He was first sentenced to 3 years' imprisonment in a reform facility. But later in 2020, he was hanged after changes were made in the JJ Act.

Juveniles also get protection in *Bhartiya Nyaya Sanhita, 2023* (hereinafter 'BNS'), but children who are above 7 years do not get complete protection. Section 20²⁰ Of the BNS, 2023 (earlier section 82 of Indian Penal Code, 1860) talks about 'Doli incapax' i.e. a child under seven years of age cannot be held criminally responsible for any offense because they are incapable of committing any crime, children below 7 years get blanket protection from criminal justice system.²¹

But Section 21²² Of the BNS, 2023 (earlier Section .83 of the Indian Penal Code, 1860) provides protection to the child who is above 7 years but below 12 years (Doli capax) if they do not have the maturity to understand the consequences of their actions.²³ This means that they are granted partial immunity from criminal liability. But if we see JJ Act, this act was giving protection to a child who was below 18 years without seeing the maturity, understanding, and gravity of the offence.

After delhi gang rape case, tremendous public outcry demanding a change in the juvenile justice laws, lowering the age limit of juveniles, and stricter punishment for juveniles committing grave offences like rape and murder, led to the constitution of Justice J.S Verma Committee. However, the committee rejected the decrease in age to 16 years. But the Government didn't accept the recommendations of the committee and passed the JJ Act 2015.

²⁰ *Bhartiya Nyaya Sanhita, 2023, Act No. 45 of 2023.*

²¹ *Bhartiya Nyaya Sanhita, 2023, Act No. 45 of 2023.*

²² *Bhartiya Nyaya Sanhita, 2023, Act No. 45 of 2023.*

²³ *Bhartiya Nyaya Sanhita, 2023, Act No. 45 of 2023.*

The 2015 Act differentiates between petty, serious, and heinous offences, and proposes to treat juvenile delinquents who commit “heinous offences” between the ages of 16 and 18 years as adults by putting them to trial under the criminal justice system.

B. Globally

The international standards and norms for the administration of justice for children include the UN Convention on the Rights of the Child (CRC), the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules), the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Rules), and the African Charter on the Rights and Welfare of the Child.

- Article 40 of the UN Convention on the Rights of the Child addresses children who are accused of breaking the law. It grants them the right to legal assistance and fair treatment, emphasizing the importance of offering various solutions to help these children reintegrate as positive members of their communities. Prisons should be considered only as a last resort.²⁴
- UN standard minimum rules for administration of juvenile justice act,1985(also known as Beijing Rules), Article 5 of the Beijing Rules lays down that the Juvenile Justice System shall prioritize the well-being of the juvenile.
- UN Rules for Protection of Juveniles Deprived of their Liberty,1990. It emphasised that the Juvenile Justice System should protect the rights and safety of the juveniles, and also it was given that imprisonment should be a last resort.
- UN Conventions on the rights of the child (CRC),1989.

C. Data

The number of crimes committed by minors increased from 33,433 to 35,849 in 2016, from 31,591 to 32,235 in 2019, and from 29,768 to 31,170 in 2021. In 2023, minors were

²⁴Convention on the Rights of the Child (1989) 35th Anniversary, United Nations, <https://research.un.org/c.php?g=1331357&p=9804957>.

responsible for 30,555 crimes, with Delhi ranking 6th, recording over 2,340 cases. In 2020, more than 2,643 cases were registered against minors. An analysis of NCRB data on juvenile crime from 2013 to 2022 shows a significant trend, with reported crimes dropping from 43,506 to 30,555, reflecting a reduction of 12,951 cases, approximately a 30% decrease over 10 years.²⁵

Table 1: Data on age and gender based on Bhartiya Nyaya Sanhita (BNS,2023) (earlier IPC) crime.²⁶

Age and Gender	Offences against the body	Offences against property	Offences against the state	Offences relating to documents
7 to 12 yrs.				
Boys	606	793	0	4
Girls	9	16	0	1
12 to 16 yrs.				
Boys	16281	18741	2	116
Girls	194	82	0	1
16 to 18 yrs.				

²⁵Suresh Deepala, Data: NCRB Data Indicates that Crimes Committed by Juveniles Down 30% Between 2013 & 2022, <https://factly.in/data-ncrb-data-indicates-that-crimes-committed-by-juveniles-down-30-between-2013-2022/>.

²⁶J Balamurugan, Raghu Abhishek, Factors and Patterns Associated with Juvenile Delinquency with reference to Juvenile Crimes in India, Journal of Law and Sustainable Development, https://www.researchgate.net/publication/375733408_Factors_and_Patterns_Associated_with_Juvenile_Delinquency_with_reference_to_Juvenile_Crimes_in_India.

Boys	52276	50519	4	592
Girls	519	182	0	4

If we look at the above data, it is clearly shown that juveniles are mostly involved in crimes against the body and property.

V. FUNCTIONING AND PROBLEMS OF JJ ACT,2015

According to NCRB data, between 2018 and 2020, over 40,000 children in conflict with the law, aged 16 to 18, were apprehended for committing various heinous crimes under the IPC and other special laws.²⁷ The 2015 Act legitimizes the transfer of juveniles above the age of 16 who have committed heinous crimes (as defined in Section 2(33) of the JJ Act, 2015²⁸, where the minimum punishment is 7 years or more).²⁹ This transfer occurs after a preliminary assessment by the Juvenile Justice Board (hereinafter called 'JJ Board'), as per section 15, considering the juvenile's mental and physical capacity to commit the offense, their ability to understand the consequences of the offense, and the circumstances in which the crime was committed.

The Juvenile Justice Board will seek the assistance of psychologists, psycho-social workers, and other experts when making assessments as per the proviso to section 18(3). Rule 10A of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, provides a procedure for doing the assessment. Section 14(3)³⁰ The JJ Act provides a time limit of 3 months from the date of production of the child to dispose of the case. ³¹This is a commendable step taken by the framers of the Act. Nowadays,

²⁷Krishna Aruna Sharma, Preliminary Assessment -A delicate task for the Juvenile Justice System, *livelaw.in*, (Sept18,2022,2:30AM), <https://www.livelaw.in/columns/juvenile-justice-system-preliminary-assessment-juvenile-justice-care-and-protection-of-children-act-juvenile-justice-board-jjb-209596>.

²⁸ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

²⁹ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

³⁰ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

³¹ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

children are maturing earlier, so the previous approach of providing blanket protection up to the age of 18 is no longer appropriate.

Recent News regarding juveniles involved in crime,

- In Rajkot, a 37-year-old woman with mental illness was allegedly raped by her 17-year-old nephew in Devbhoomi Dwarka district.³²
- In a recent incident on May 19, 2024, in Pune, a Porsche allegedly driven by a 17-year-old under the influence of alcohol struck and killed two motorists.³³

Nowadays, we frequently come across disturbing incidents where minors commit heinous crimes like murder and rape. In many cases, they are fully aware of their actions and understand the consequences of their behaviour. So, they need to be tried and get harsher punishment, but the problem is, they are not required to be tried as an adult. Adults' and teens' brains function differently.

The rational part of a teenager's brain isn't fully formed and won't be until around age 25. Adults use the prefrontal cortex, the rational part of the brain responsible for sound judgment and awareness of long-term consequences. In contrast, teens primarily process information through the amygdala, the brain's emotional center. In teenage brains, the connections between the emotional centre and the decision-making part are still forming, and not always at the same pace. Juveniles may struggle to fully control impulses as effectively as adults.

Many of these children come from economically and socially disadvantaged backgrounds and have often experienced substantial physical, sexual, or emotional abuse. Such environmental factors can further impact brain development and its functioning. This is why, when teens experience strong emotions, they may struggle

³²Woman raped by 17-year-old nephew, The times of India, (Oct17, 2024, 8:57PM)
https://timesofindia.indiatimes.com/city/rajkot/shocking-case-nephew-allegedly-rapes-aunt-with-mental-illness-in-rajkot/articleshow/114323063.cms?amp_gsa=1&_js_v=a9&usqp=mq331AQIUAKwASCAA&utm_source=Taboola&utm_medium=organic&utm_campaign=recirculation.

³³Asseem Shaikh, Pune Porsch crash case: Accused playing with justice dispensing system have no right to claim bail says prosecution, The times of India, (Apr5,2025,01:12PM)
<https://timesofindia.indiatimes.com/city/pune/pune-porsche-crash-case-accused-playing-with-justice-dispensing-system-have-no-right-to-claim-bail-says-prosecution/articleshow/119990690.cms>.

to explain their actions later.³⁴ Under the JJ Act, after the Juvenile Justice Board's assessment, the child is sent to the Children's Court, where it is decided whether a trial is necessary. If the court determines that the child should be tried as an adult, the criminal justice system comes into effect.

Upon conviction, the children are kept in safe custody until they turn 21, after which they are transferred to jail. The preamble of the JJ Act, 2015 seeks to provide for the children in conflict with the law and children with basic needs like care, protection, and development.³⁵ It also emphasises rehabilitation and reintegration into society, rather than just punishment.³⁶ A child-friendly approach is used in legal proceedings to prioritise the child's best interests, ensuring that they are treated in a way that promotes their well-being and prospects³⁷.

If the child is sent to jail after turning 21, all the reformation, including education services, behaviour modification therapy, psychiatric support, and rehabilitation they went through could go to waste, as they might get exposed to hardened criminals. Also, doesn't this defeat the purpose of the JJ Act? The point is that everyone deserves a second chance, though not in every case. However, if a child is kept in special protection until they turn 21, instead of sending them to an adult jail, the government could provide separate facilities for them.

Additionally, the evaluation process in Children's Courts lacks transparency, which could lead to arbitrariness and unreasonableness, potentially violating Article 14 of the Constitution and also the principle of natural justice. Placing juveniles in adult prisons violates their liberty and, therefore, infringes upon Article 21 of the Indian Constitution. It also violates Article 15 of the Constitution, which gives power to the state to make specific provisions for children. So, the Question here arises: Whether the juvenile justice system effectively addresses the problems of juveniles and works

³⁴Understanding the teen brain, University of Rochester Medical Centre, <https://www.urmc.rochester.edu/encyclopedia/content.aspx?ContentTypeID=1&ContentID=3051>.

³⁵ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

³⁶ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

³⁸ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

to reform and reintegrate them into society? Whether the juvenile justice system address socio-economic factors responsible for juvenile delinquency?

In the case of *Jitendra Singh @ Babboo Singh v. State of UP*³⁸, which pertains to dowry death, one of the accused during an appeal in the Supreme Court claimed that he was a minor at the time of the offence. The Court provided certain safeguards to prevent similar situations in the future. It emphasized that the magistrate is obligated to determine and record findings regarding the juvenility of the accused at the earliest stage. The Court observed that a juvenile cannot be presumed to know existing laws, particularly considering socio-economic factors. Therefore, the responsibility lies with the magistrate to assess and determine juvenility, as a juvenile cannot be expected to claim this status on their own.³⁹

A study conducted by the Indian civil society organisation 'iProBono' has revealed that approximately 9,681 children were wrongfully incarcerated in adult facilities over six years from January 1, 2016, to December 31, 2021. In another case, a girl child named Neha, a Child in Conflict with the Law (defined in Section 2(13) of the JJ Act), was accused by her father of murdering her mother in April 2018. At just 17, she was legally classified as a minor under the Juvenile Justice (JJ) Act, yet she spent years in an adult jail before finally being granted bail.⁴⁰ According to the JJ Act, a child alleged to have committed an offence or found guilty must be placed in an appropriate juvenile facility, such as an observation home, special home, or place of safety, rather than an adult prison.

So, by putting juvenile in adult jails is against the core objectives of the JJ Act. and is violations of the Juvenile Justice (Care and Protection of Children) Act, 2015, which explicitly prohibits holding any child 'in conflict with the law' in police lock-ups or

³⁸*Jitendra Singh @ Babboo Singh v. State of UP* (2013)11SCC193.

³⁹Monesh Mehndiratta, Landmark juvenile supreme court cases in India, (18Dec.17,2024,5:45PM) <https://blog.ipleaders.in/landmark-juvenile-supreme-court-cases-in-india/#:~:text=Salil%20Bali%20v.&text=The%20petitioner%20urged%20that%20it,group%20of%2016%2D18%20years.>

⁴⁰Vrinda Tulsian, Hindustan Times, over 9,600 children wrongfully incarcerated in adult prisons in India: Study, <https://www.hindustantimes.com/india-news/over-9-600-children-wrongfully-incarcerated-in-adult-prisons-in-india-study-101715491365604.html>.

jails as provided in section 10 of JJ Act.⁴¹ They might get exposed to hardened criminals, incarceration in jail would hinder the child's development, expose them to harmful influences, dull their conscience, and alienate them from society. Prisons can be dangerous environments even for hardened criminals, but for young offenders, the risks are especially high as they are more susceptible to victimization due to their age and physical vulnerability.

Juvenile offenders often have psychological, economic, and social issues that require attention as part of their rehabilitation process. Adult prisons typically lack the resources and facilities needed to address these specific needs. There is a possibility that juveniles who have already committed an offense may commit further crimes in the future, and these offenses could become more violent or serious over time. Putting juveniles in adult prisons violates their rights given in Article 21 of the Indian Constitution.

A. Problems with preliminary assessment

The entire decision regarding the preliminary assessment of children in conflict with the law rests with the JJ Board. There is a risk of arbitrariness, as the proviso to Section 15 of the JJ Act⁴² states that the Board 'may' take assistance, leaving it to the Board's discretion whether to seek help or not from psychologists or psycho-social workers and other experts.⁴³

In *Barun Chandra Thakur vs. Master Bholu & Anr.* (2022), the Supreme Court examined a JJ Board and Children's Court decision to try a child as an adult. The Court criticized the JJB and Children's Court for conflating a child's mental capacity with their understanding of the consequences of their actions. It mandated that a comprehensive psychological evaluation be conducted before deciding to try a child as an adult. The Court also clarified that "may" in the provision should be interpreted

⁴¹ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

⁴² The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

⁴³ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

as “shall,” requiring at least one member of the Board to be a qualified child psychologist or psychiatrist.⁴⁴

B. Problem regarding Age

Children are placed in adult jails due to inadequate verification of their ages before being remanded to judicial custody. Police often fail to fulfill their legal obligation to confirm a child's age and instead directly transfer them to judicial custody after presenting them to the Magistrate. The Magistrate relies solely on the age provided in the forwarding memo by the investigating officer and does not even try to cross-check the details. Section 9 of the JJ Act⁴⁵ Mandates that if a magistrate believes a person brought before them is a child, they must promptly record this and transfer the child and their records to the JJB without delay.⁴⁶ This absence of a proper age inquiry undermines the spirit of the law. This kind of carelessness not only violates child rights but also fails the JJ Act objective.

In the case of Mahesh v. State of Kerala, Ker. HC,2024. In this case, the convicts were subjected to approximately 14 years of imprisonment because the authorities failed to recognize that the convict was a juvenile at the time the crime was committed. The court criticized the authorities and judiciary for not ensuring the proper determination of the convicts' age. It also expressed concern over the lack of any law holding investigative agencies accountable for verifying the age of those arrested. The Kerala High Court also referred to the case of Jitendra Singh v. State of U.P.,⁴⁷ where the Supreme Court emphasized that the responsibility for protecting the rights and interests of juvenile's rests more heavily on the judiciary than on the investigating agencies.⁴⁸

⁴⁴Krishna Aruna Sharma, Preliminary Assessment - A delicate task for the Juvenile Justice System, <https://www.livelaw.in/columns/juvenile-justice-system-preliminary-assessment-juvenile-justice-care-and-protection-of-children-act-juvenile-justice-board-jjb-209596>.

⁴⁵ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

⁴⁶ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

⁴⁷ Jitendra Singh v. State of U.P., 2013 (11) SCC 193.

⁴⁸ No law fixes responsibility on officers to verify age of arrestees': Kerala HC issues directions to prevent

mistaken trial of juveniles as adults, SC Online (Dec. 18, 2024, 6:55 PM) <https://www.scconline.com/blog/post/2024/12/18/kerala-hc-issues-directions-to-prevent-mistaken-trial-of-juvenile-as-adults/>.

Section 8(3)(m) of the JJ Act⁴⁹ Requires the Juvenile Justice Board to regularly inspect adult prisons and immediately transfer any child found to a proper child care institution.⁵⁰ The 2016 Model Prison Manual includes provisions for age determination, stating that if a prisoner appears younger than their stated age during a medical examination, the matter should be referred back to the relevant court. The report reveals that each year, over 1,600 children on average are transferred out of prisons after being confirmed as under 18 at the time the offence was committed.⁵¹

The JJ Act includes multiple provisions and statutory checkpoints to determine the age of a child. However, considering the available data and news reports, it appears that the JJ Act is not being effectively implemented to address the grievances of children.

VI. CAUSES BEHIND JUVENILE DELINQUENCY

A. Education⁵²

One of the leading causes of juvenile criminality in any society is a lack of educational opportunities. Education is a defining factor of one's personality. It plays a key role in shaping a person's future. Through education, a child gains an understanding of what is good and bad for them, what is acceptable in society, and what they can or cannot do. These are the things a person learns from education.

Education not only shapes the individual but also the world. If a child is educated, they can earn and live a decent life. School failure, including poor academic performance and dropping out, is a key predictor of future criminal behaviour. Early school departure limits juveniles' opportunities to develop essential social skills.

In India, the conditions of government schools do not match those of private schools, and children from poor families cannot afford private school fees. As a result,

⁴⁹ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

⁵⁰ The Juvenile Justice (Care and Protection of Children) Act, 2015, Act No. 2 of 2016.

⁵¹ Gur Simran kaur bakshi, Juveniles in adult prisons: Why is the Juvenile Justice Act failing its object and purpose? May18,2024,5:08AM) TheLeaflet, <https://theleaflet.in/juveniles-in-adult-prisons-why-is-the-juvenile-justice-act-failing-its-object-and-purpose/>.

⁵²Id.

privileged children receive better facilities, opportunities, and a more supportive educational environment.

Due to a lack of resources, many young people struggle to succeed in education, causing them to lose interest in their studies and turn to the streets. Poverty and juvenile delinquency are connected, as youth living in poverty are more likely to become involved in crime.

B. Family⁵³

A person is known by their companions, with whom they live and form friendships. The environment in which a child grows up affects the child's thinking, behaviour, and approach to problem solving, as both the conscious and subconscious mind record everything happening around them. A child's brain is like a clean slate; whatever they see, hear, and feel is imprinted on their mind.

So, if a child witnesses feuds, abuse, fights between parents, and the way elders treat them, it plays a significant role in shaping their personality. Family background also plays a pivotal role; if a child belongs to a criminal family, there is a high chance that the minor will commit a crime. Negative habits of parents, such as smoking, drinking, and gambling, can be transmitted to their children, leading to juvenile delinquency.

In families where parents do not interact with their children, fail to address their problems, ignore their desires, and constantly apply pressure, those children are more likely to engage in criminal activities. Parents need to love their children, act friendly with them, and try to understand their needs without isolating them. Today, many parents are so focused on making money that they often neglect their children and fail to provide the emotional support or to teach them pertinent social norms.

C. Substance Abuse Factors⁵⁴

In today's modern era, the use of drugs and other illegal substances, as well as addiction to them, often drives minors and adolescents to commit crimes. When a

⁵³Mark Nice wicz, Esq., 7 Factors Leading to Juvenile Delinquency, NICE WICZ ATTORNEY AT LAW, <https://www.nicewicz.com/blog/7-factors-leading-to-juvenile-delinquency/>.

⁵⁴Id.

child engages in drug use, there is a higher likelihood of involvement in criminal activities. Not every child can afford to buy drugs, so to obtain money for them, they may start committing illegal acts, such as stealing from their homes or others, or committing criminal activities on a contractual basis. These activities can escalate over time, increasing the chances of the child's involvement in more serious crimes.

D. Social Media, Movies, Web Series

Nowadays, social media greatly affects young people. Minors are highly susceptible to the influence of online technology, and social media, movies, and web series are easily accessible to children. They often want to imitate what they see in movies, such as the behaviour of villains or the fighting styles of heroes.

This imitation can lead to a perception that violence and criminal behaviour are exciting or glamorous. The rising incidence of digital crime poses new challenges. Young people are participating in cybercrimes like hacking, cyberbullying, and online fraud. The anonymity and accessibility of digital platforms make it easier for them to be drawn into illegal activities.

E. Psychological Factors

Some children exhibit a mindset and behaviour patterns inclined toward aggression, including tendencies for anger, stubbornness, and enjoyment in acts like fighting, abusing, or excessive pranks. Sometimes, parents may unknowingly overlook these behaviours, not recognizing them as serious. As these children grow up, their likelihood of engaging in criminal activities can become significantly higher than that of other children their age.

F. Socio-Economic Factors⁵⁵

Society plays a crucial role in the physical, social, psychological, and moral development of a child. Children learn social norms and values from their surroundings, which greatly influence their behaviour. Social disorganisation theory (from Shaw and McKay's (1969) perspective), the family, peer groups, and

⁵⁵Mark Nicewicz, Esq., 7 Factors Leading to Juvenile Delinquency, NICE WICZ ATTORNEY AT LAW, <https://www.nicewicz.com/blog/7-factors-leading-to-juvenile-delinquency/>

neighborhood institutions are crucial for a child's development and socialization. The child's character, personality, and actions are more strongly shaped by the quality of their social relationships and physical surroundings rather than by rational decision making.

This theory asserts that disorganized neighborhoods with high population turnover, diverse demographics, and poverty are more likely to experience elevated crime levels as individuals are strongly influenced by their environment.⁵⁶ Children are not mature enough to differentiate between right and wrong, and they are often influenced by negative activities. The high financial aspirations of youth, which their parents may not be able to afford, can lead them to engage in criminal activities. In their desire to improve their status, juveniles sometimes opt for the wrong path, resulting in involvement in crime.

In numerous cases, minors from impoverished families, often facing hunger and unable to meet their basic needs, engage in theft, robbery, and similar activities out of necessity. Lacking support, they are also vulnerable to criminal exploitation, as in human trafficking, where they may be forced into begging or stealing. Youth living in poverty face intense pressure to survive in low socioeconomic communities that lack essential resources, such as job opportunities, financial support, mental health services, medical care, and quality education. This lack of resources hinders their chances of success in a society.

As a result, individuals without financial stability are more likely to be drawn toward criminal activities. Those in low-income communities' struggle to find employment, especially jobs that offer more than minimum wage. Without stable and sufficient income, many young people are driven toward crime as a means of survival. Poverty creates feelings of dissatisfaction, hatred, and inferiority, which can lead to criminal behavior. Poverty also heightens psychological distress in parents, which further hinders effective parenting. A child's quality of upbringing is significantly shaped by

⁵⁶zuletzt aktualisiert, Christian Wickert, Social disorganization theory (Shaw & McKay), soz theo (, Nov, 2023) <https://soztheo.de/theories-of-crime/social-disorganization/soziale-desorganisation-shawmckay/?lang=en#:~:text=Social%20disorganization%20theory%20assumes%20that,actions%20by%20a%20certain%20environment.>

their parents' economic resources. Children raised in extreme poverty are at higher risk of experiencing abuse compared to peers in financially stable households, and this also increases their likelihood of engaging in criminal behavior.

Sometimes, traffickers even harm or handicap these children to increase their dependence, making them more susceptible to criminal influence. In the 2024 Global Hunger Index, India ranks 105th out of 127 countries.⁵⁷ So, by providing poor children with quality education and necessities could help prevent them from turning to crime to meet their needs, as they resort to these methods as a means of survival.

If a minor doesn't have enough money to even afford food, how can we expect them to access education and integrate into society?. Economic factor is a serious concern that needs to be addressed. Understanding the causes that lead children into conflict with the law is crucial to preventing their involvement in antisocial activities, crime, and harmful behaviours, and for establishing an effective juvenile justice system, one is born a criminal; circumstances lead them to crime.

VII. CHALLENGES

A major obstacle to the effective implementation of juvenile justice laws is the inadequate infrastructure and resources available, especially in rural regions. The investigating officer often fails to effectively determine a child's age or create a supportive environment during investigations due to a lack of training. Additionally, the JJ Board is not functioning effectively. A recent example is the Pune Porsche accident in which a minor was sentenced to community service as punishment by the court, but due to public outcry juvenile justice board cancelled the bail order and transferred the minor to an observation home.⁵⁸ This incident shows the flaws of the juvenile justice system and its implementation, and addresses the problem of juveniles effectively.

⁵⁷GlobalHungerIndex,2024:India-GlobalHungerIndex, Concern Worldwide and Welthungerhilfe (Oct ,2024) <https://www.globalhungerindex.org/pdf/en/2024/India.pdf>.

⁵⁸AnuragMishraandYashRaj,communityservice:Aprogressiveshiftintroducedbybhartiyanayasanhita, [livelaw.in,\(Jun19,2024,1:13AM\),https://www.livelaw.in/lawschool/articles/community-service-bhartiya-nyaya-sanhita-indian-penal-code-juvenile-justice-act-national-crime-records-bureau-260813](https://www.livelaw.in/lawschool/articles/community-service-bhartiya-nyaya-sanhita-indian-penal-code-juvenile-justice-act-national-crime-records-bureau-260813).

The lack of sufficient juvenile detention centers and rehabilitation facilities can result in overcrowding and poor living conditions, hindering the provision of necessary support and rehabilitation for young offenders. Moreover, the lack of access to essential services such as counseling, education, and vocational training hinders the successful reintegration of juveniles into society.

Additionally, juvenile justice laws must tackle the unique challenges faced by youth with disabilities and reflect social realities. The rise of digital offenses poses new difficulties for juvenile justice systems worldwide. As technology evolves, more juveniles are becoming involved in cybercrimes such as hacking, cyberbullying, online fraud, stalking, and digital harassment. Identifying children who have the potential to commit crimes and providing them with the necessary support for reform is also a significant challenge.

Additionally, the limited resources available to NGOs, detention centers, and children's homes aggravate the problem. Another problem is the reintegration of juveniles into society after their release from a special home or jail. Although they may have changed, society still views them as criminals, making societal acceptance a hard nut to crack. A supportive family involvement is essential to the juvenile justice system. A child can successfully reintegrate into society with the emotional stability, positive reinforcement, and healthy and supportive environment that a family can offer.

VIII. SUGGESTIONS

- **Reformation and Rehabilitation:** Reforming and rehabilitating a juvenile delinquent requires empathy, patience, an organised system, and adequate resources. Rehabilitation Programs, like Vocational training, education, and psychological treatment, should be effectively provided to juveniles. Vocational training equips juveniles with practical skills for future employment, while educational programs ensure their academic growth continues. Psychological interventions, including counselling and therapy, address behavioural issues and mental health needs. To make them mend with society again, they need these skills, and keeping them up-to-date with

societal changes enables them to successfully adapt and thrive upon leaving their special home. In the case of *Jarnail Singh v. State of Haryana (2013)*⁵⁹ The Hon'ble Supreme Court of India emphasised the importance of adopting a welfare approach for juvenile offenders, stating that the focus should be on their reform and rehabilitation instead of imposing punitive measures.⁶⁰

- **Adoption:** The Adoption of juveniles will be a requisite step towards reformation and changing the conditions of juveniles. The Supreme Court in the case of *Shabnam Hashmi v. Union of India, 2014* recognised the right to adopt as a fundamental right under Part III, Article 21 of the Constitution. SC held that parents intending to adopt under the Juvenile Justice Act, 2000, could do so regardless of their religion, caste, or creed.⁶¹
- **Children's Court:** The Court should give preference to reformation instead of punishment.
- **Detention Centre:** These centres must provide a child-friendly environment that supports children in becoming the best version of themselves. Additionally, all reformation and rehabilitation activities should be carried out effectively.
- **Juvenile Justice Board and Police Officer:** Their role is pivotal, as they determine the child's age, decide where the child should be placed, conduct preliminary investigations, and more. They need to remain vigilant.
- **Government:** The government needs to effectively implement the Directive principles of state policy and ensure that children from poor families receive the facilities necessary for their education and self-improvement. These are the few fundamental rights and directive principles of state policy of the Indian Constitution that are related to children's welfare.

⁵⁹*Jarnail Singh v. State of Haryana* AIR 2013 SC 3467(India).

⁶⁰Ayush Chandra, Juvenile Justice Reform: Balancing Rehabilitation and Punishment in India, *Legal Onus LawJournal(LLJ)*, (Aug19, 2023), <https://legalonus.com/juvenile-justice-reform-balancing-rehabilitation-and-punishment-in-india/>.

⁶¹ *M/S Shabnam Hashmi vs Union of India & Ors*, AIR 2014, SC 1281.

IX. CONCLUSION

Juvenile delinquency, or minors in conflict with the law, is a serious and complex issue that cannot be solved by legal measures alone. Various socio-economic, cultural, environmental, and political factors contribute to this problem, many of which remain unaddressed. Children, as the most vulnerable members of society, require substantial social care. Children are not socially, emotionally, and intellectually developed, and their dependence exposes them to risks of exploitation, mistreatment, and negative influences from antisocial elements in the community. The State has a responsibility to ensure adequate care and protection for children, as the nation's future relies on their physical and mental well-being.

The Constitution outlines this duty through several provisions, including clause (3) of Article 15 and clauses (e) and (f) of Article 39, along with Articles (45,14,21,24) and Article 47, which emphasize the State's primary responsibility to meet all children's needs and safeguard their basic human rights. For effective rehabilitation and reform of juveniles, it is crucial to address core issues such as economic, societal, and psychological challenges. Due to a lack of training, the investigating officer frequently makes mistakes when attempting to ascertain the age of a child or provide a supportive atmosphere. The JJ Board is also not operating efficiently.

These factors must be tackled, even if the legislature enacts numerous laws, they will be ineffective unless they consider the juvenile's perspective, understanding why they commit crimes, what influences them, and what their needs are. Additionally, the effective implementation of these laws is crucial.