



JUVENILE JUSTICE*

ABSTRACT

India is home to the world's largest population of children at approximately 440 million with almost forty percent of the population being under fifteen years of age (UNODC & World Bank, 2007). India is also home to the largest number of vulnerable and poor children, with approximately forty-four million children who are orphans, street children, refugees, children of commercial sex workers, and others in need of care and protection (WHO, 2006). Pushed by such dire circumstances, numerous children become juvenile offenders and enter the vortex of India's juvenile justice system. With magnification of alarming statistics of juvenile delinquency, it becomes imperative to comprehend 'juvenile delinquency' as a concept. The article presents a socio-legal outlook towards the subject. It traces the roots and conceptualization of 'juvenile delinquency', the present legal stance of India towards it and a comparative study of the laws of various countries of the world on the issue, to implement better approaches and combat the growing social evil. The legal scenario in India has changed significantly due to the recent enactment of Juvenile Justice (Care and Protection of Children) Act of 2015. The same is also studied to gain a contemporary and holistic view of the subject. A doctrinal method of research is followed to critically apprehend and inspect the issue. The article determinately suggests certain preventive and supportive measures to tackle the cataclysm of juvenile delinquency from its very genesis. Eugenically, the article presents an approach towards juvenile justice worth being acknowledged and emulated.

I. INTRODUCTION

Today, India is home to the world's largest population of children at approximately 440 million with almost forty percent of the population being under fifteen years of age.¹ India is also home to the largest number of vulnerable and poor children, with approximately forty-four million children who are orphans, street children, refugees, children of commercial sex workers, and others in need of care and protection.² Pushed by such dire situations and circumstances, numerous children become juvenile offenders and enter the vortex of India's juvenile justice

* Ms. Devina Srivastava, II Year Student, BBA LL.B. (Hons.), Symbiosis Law School, Pune, Symbiosis International University, India.

¹ United Nations Office on Drugs and Crime (UNODC) & Latin America and the Caribbean Region of the World Bank (2007). Crime, Violence, and Development: Trends, Costs, and Policy Options in the Caribbean. Report No. 37820 (March). Available from http://www.unodc.org/pdf/research/Cr_and_Vio_Car_E.pdf.

² World Health Organization (WHO) (2006). Fact sheet: youth violence and alcohol. Violence and Injury Prevention. Available from http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/ft_youth.pdf.

system. To understand the severity of the issue, it is first necessary to establish a definition for 'juvenile delinquency'. **Juvenile delinquency**, also known as "**juvenile offending**", is participation in illegal behavior by minors (juveniles, i.e. individuals younger than the statutory age of majority).³

It is of relevance to note that today youth are disproportionately represented in statistics on crime and violence, as perpetrators, and in many developed countries violent crimes are being committed at younger ages than in the past.⁴ Moreover, there is growing concern that in some countries, the proportion of violent crimes committed by youth has been increasing.⁵ With dedicated justice systems present in most developing countries, juveniles are being subject to specialized laws and procedures to be metamorphosed into healthy citizens with the aim of protection of the society. In India, the Parliament had enacted the Juvenile Justice Act in 1986 and then the Juvenile Justice (Care and Protection of Children) Act in 2000 which was then amended in 2015. In 2013, the Indian authorities apprehended (the term used for arresting a minor) 43,506 minors, 95 percent of whom were boys. Two-thirds of these minors were ages 16-18 years old, and 31 percent were 12-16 years old. About half (51%) had less than primary-level education, and 81 percent resided with their parents. The total number of Indian Penal Code crimes committed by juveniles rose by 13 percent from 2012-2013, although as a proportion of total crimes in India, there was little change: 1.3 percent in 2013, compared to 1.0 percent in 2003 (National Crime Records Bureau 2013).⁶

Thus, with alarming statistics, it becomes imperative to understand 'juvenile delinquency' as a concept. The article presents a socio-legal outlook towards the subject. It traces the roots and conceptualization of 'juvenile delinquency', the present legal stance of India towards it and the laws of various countries of the world on the subject, to take cues from them to implement better approaches and combat the growing social evil.

II. CONCEPTUALISATION OF THE ISSUE

According to the developmental research of Moffitt (2006)⁷, there are two different types of offenders that emerge in adolescence. One is the repeat offender, referred to as the life-course-persistent offender, who begins offending or showing antisocial/aggressive behavior in adolescence (or even childhood) and continues into adulthood; and the age specific offender, referred to as the adolescence-limited offender, for whom juvenile offending or delinquency begins and ends during their period of adolescence.⁸ Family factors that may have an influence on offending include: the level of parental supervision, the way parents discipline a child,

³ Siegel, Larry J.; Welsh, Brandon (2011). *Juvenile Delinquency: The Core* (4th ed.). Belmont, CA: Wadsworth/cengage Learning. ISBN 0534519326.

⁴ World Health Organization (WHO) (2006). Fact sheet: youth violence and alcohol. Violence and Injury Prevention. Available from http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/ft_youth.pdf.

⁵ Guerra, Nancy (2005). Youth Crime Prevention: Community Based Crime and Violence Prevention in Urban Latin America and the Caribbean. World Bank Water, Disaster Management, and Urban Development Group, Latin America and Caribbean Region. Washington, D.C.: World Bank.

⁶ United Nations Office on Drugs and Crime (UNODC) and United Nations Children's Fund (UNICEF) (2006). Manual for the measurement of juvenile justice indicators. Available from http://www.unodc.org/pdf/criminal_justice/06-55616_ebook.pdf.

⁷ Steinberg, L. (2008). *Adolescence* (8th ed.). New York: McGraw-Hill. ISBN 9780073405483.

⁸ Moffitt (2006). "Life course persistent versus adolescent limited antisocial behavior". In Cicchetti, D.; Cohen, D. *Developmental Psychopathology* (2nd ed.). New York: Wiley.

particularly harsh punishment, parental conflict or separation, criminal parents or siblings, parental abuse or neglect, and the quality of the parent-child relationship.⁹

Juvenile delinquents are also often diagnosed with different disorders. Around six to sixteen percent of male teens and two to nine percent of female teens have a conduct disorder. These can vary from oppositional-defiant disorder, which is not necessarily aggressive, to antisocial personality disorder, often diagnosed among psychopaths.¹⁰

Thus, though poverty and unemployment are not, by themselves causes of violence, they become important factors when coupled with other triggers such as lack of opportunity, inequality, exclusion, the availability of drugs and firearms, and a breakdown in access to various forms of capital, justice and education.¹¹ This is especially of relevance in India where such social evils are on the rise. Violence and insecurity perpetrated by and against young people are caused by various factors that work simultaneously to create situations of social instability.¹² In many households, the tension fuelled by social exclusion and financial hardship has is vented on the most vulnerable members of the family, such as women and children. A report of the United Nations Office on Drugs and Crime and World Bank states “*evidence suggests that children who witness domestic violence are more likely to engage in delinquent and violent behavior in the future*”.¹³ Being subject to violence as a child, is also associated with a higher probability that children and young people will engage in delinquent and violent behavior, as well as increased risk of children and youth abandoning the home and joining their peers on the street.¹⁴

Therefore, the roots of the issue lie in dire situations of despair and hopelessness, which need to be addressed at the earliest to check the issue of juvenile delinquency.

III. LEGAL PROVISIONS FOR CARE AND PROTECTION OF JUVENILES IN INDIA

Juvenile Justice Act, 1986

In 1986, India passed its national Juvenile Justice Act, which for the first time created a uniform framework for dealing with delinquent and neglected or dependent children. It marked a shift from a welfare model to a justice model, and attempted to consolidate legislation nationally and to align it with the UN Minimum Rules on the Detention of Juveniles (Beijing

⁹ Graham, J. & Bowling, B. (1995). *Young People and Crime*, Home Office Research Study No. 145, London: Home Office.

¹⁰ Hare (1991). *The Hare Psychopathy Checklist Revised*. Toronto, Ontario: Multi-Health Systems.

¹¹ Levitt, Steven D. (1998). Juvenile crime and punishment. *Journal of Political Economy*, vol. 106, No. 6 (December), pp. 1156-1185.

¹² World Health Organization (WHO) (2006). Fact sheet: youth violence and alcohol. Violence and Injury Prevention. Available from http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/ft_youth.pdf.

¹³ United Nations Department of Economic and Social Affairs (UNDESA) (2003). *World Youth Report 2003: The Global Situation of Young People*. Sales No. 03.IV.7. Available from <http://www.un.org/esa/socdev/unyin/documents/worldyouthreport.pdf>.

¹⁴ Worldwatch Institute (2005). *State of the World 2005: Redefining Global Security*. New York and London: W.W. Norton & Company.

Rules 1985)¹⁵. The Act called for the rehabilitation, development, and protection of minor offending juveniles and adjudication for more serious offending juveniles. However, the Indian juvenile justice system appeared to be relatively non-punitive.

Juvenile Justice (Care and Protection of Children) Act, 2000

Following international attention on children's human rights with the ratification of the Convention on the Rights of the Child ("CRC"), India drafted a new law-the Juvenile Justice (Care and Protection of Children) Act of 2000 ("JJA 2000")--which was passed in 2001. The Asian Centre for Human Rights, in a report to the United Nations Committee on the Rights of the Child¹⁶, commented "*in the absence of effective measures for its implementation and lack of resources, the Act may be considered as ineffective.*"

The JJA addressed both minors who were in conflict with the law and those who are vulnerable due to neglect or poverty, and mandated separate treatment for the two groups. The maximum sentence for a juvenile was three years, served in a "Special Home" or "Observation Home." Other sentence options included community service and probation. The minimum age of criminal responsibility in India was 7 years, although minors between 7-12 years old were treated differently than those who were 12-18 years old. Given that the previous law had set the age for being charged as an adult at 16 years old for boys, after the Juvenile Justice Act was in place, the number of boys in the juvenile system increased substantially and suddenly.¹⁷ Furthermore, the juvenile justice system, though relatively progressive on paper, was implemented unevenly (and sometimes not at all) across India,¹⁸ and with insufficient resources.

Juvenile Justice (Care and Protection of Children) Act, 2015

It was the sustained public pressure and outcry led by Nirbhaya's parents that compelled a stalled Rajya Sabha to debate and amend the Act of 2000 and pass the Juvenile Justice (Care and Protection of Children) Act, 2015 which came into effect on 15 January 2015.

As per the amendment, juveniles committing heinous crimes such as rape and murder and who are between 16 and 18 years can now be tried as adults if the Juvenile Justice Board after due deliberations comes to this assessment. Also, on conviction under the new law, the juvenile can be convicted for up to seven years, unlike the earlier maximum stay of three years in a correctional home. Another improvement in the new law is the considerable involvement of organised and volunteering community. Trained and qualified community workers can be co-opted at all stages of work.

Regarding the amendments made, there exist conflicting views. Some argue that the current law does not act as a deterrent for juveniles committing heinous crimes. Another view is that a

¹⁵ United Nations (1985). United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"). 29 November. A/RES/40/33. Available from <http://www2.ohchr.org/english/law/pdf/beijingrules.pdf>.

¹⁶ United Nations (2000). Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. 25 May. A/RES/54/263. Available from <http://www2.ohchr.org/english/law/crc-conflict.htm>.

¹⁷ Levitt, Steven D. (1998). Juvenile crime and punishment. *Journal of Political Economy*, vol. 106, No. 6 (December), pp. 1156-1185.

¹⁸ *ibid*

reformatory approach will reduce likelihood of repeating offences. It is contended by jurists that the provision of trying a juvenile committing a serious or heinous offence as an adult based on date of apprehension could violate the Article 14 (right to equality) and Article 21 (requiring that laws and procedures are fair and reasonable). The provision also counters the spirit of Article 20(1) by according a higher penalty for the same offence, if the person is apprehended after 21 years of age.

Also, it has been brought to light that the UN Convention on the Rights of the Child¹⁹ requires all signatory countries to treat every child under the age of 18 years as equal. The provision of trying a juvenile as an adult contravenes the Convention. It has also been observed that some penalties provided in the Act are not in proportion to the gravity of the offence. For example, the penalty for selling a child is lower than that for offering intoxicating or psychotropic substances to a child.

However, among the many positives of the act, is the new clause on fair trial, under which the assessment will look into the special needs of the child, under the tenet of fair trial under a child-friendly atmosphere. The child will not suffer from any disqualification that arises from any conviction under the Act. Also, the records of any conviction will be destroyed after the expiry period of appeal, except in the case of heinous crimes. Other boons include- biological parents giving up children for adoption, will be given three months to rethink their decision, instead of the existing one month, the aftercare of the child in institutional care will not be restricted to only one time, any child leaving institutional care can now receive financial support more than one time, disabled children will be given precedence in inter-state adoption, abandoned children, found by the childcare facilities, will be kept for 60 days before being given up for adoption or foster care, instead of the existing 30 days, in acting on an appeal against an order passed against the child, the board will now take help of experienced psychologists and medical specialists and there will now be proper training of special juvenile units in the police force.

Therefore, views exist both in favour of as well as against the Juvenile Justice Act, 2015. While the move by the Parliament has been highly appreciated, there still exists scope for improvement in light of the legal provisions for juveniles across the world.

IV. LEGAL APPROACH TOWARDS JUVENILES OF COUNTRIES ACROSS THE WORLD

Great Britain

In Great Britain, the Children Act in 1908 created a special justice system for juvenile offenders—the Juvenile Court (renamed Youth Court in 1991), intended to handle both criminal and noncriminal cases. The English youth courts exercise jurisdiction over offenders aged 10 (the minimum age of criminal responsibility) to 16. (Those under 14 are designated as “children,” and those over 14 and under 17 are classified as “young persons.”) Offenders aged 17 and over appear in the normal adult courts, though special sentencing provisions apply to offenders under the age of 21.²⁰

In addition to age, youth and adult courts are distinguished by the types of cases they handle,

¹⁹ United Nations (1989). Convention on the Rights of the Child. 20 November. A/RES/44/25.

²⁰ Doob, AN & Tonry, M 2004, ‘Varieties of Youth Justice’ in *Youth Crime and Justice*, eds M Tonry, AN Doob, Chicago, London: University of Chicago Press (Crime and Justice Vol. 31): pp. 1–20.

with youth courts hearing a much wider variety of offenses. Nearly all offenses committed by children are tried in youth courts, though the courts are not bound to deal with extremely serious offenses such as robbery or rape. On such charges, a young person will nearly always be tried as an adult. In most cases a youth also will be tried as an adult for murder or manslaughter. If he is charged jointly with an adult crime while being tried in juvenile court, he can be sent to an adult court for trial, though he is normally returned to the youth court for sentencing.²¹

Youth courts also deal with children of any age up to 17 in what is called a care proceeding, which is based on the idea that the child is in need of court-ordered care, protection, or control because one of a number of conditions is satisfied. Reasons for care proceedings can include neglect or assault by parents, but they always stem from the fact that the juvenile has committed an offense. Thus, a juvenile who commits an offense will come before the youth court in one of two ways: criminal proceedings or care proceedings. This combination of two different roles in the youth court was a source of difficulty and controversy for many years, particularly because the court in its criminal jurisdiction was required by law to “have regard to the welfare of the child or young person” and, if satisfied that it was necessary to do so, remove the youth from unsatisfactory surroundings for his own good, irrespective of the gravity of the offense.²²

In 1991 the Criminal Justice Act allowed the newly named Youth Court to handle cases involving 17-year-olds, and in 1994 the Criminal Justice and Public Order Act assigned stiffer punishments to juvenile offenders. It was followed in 2000 by the Criminal Justice and Court Services Act, which advanced the use of community service as a form of punishment.

United States of America

A juvenile in the United States may be tried in criminal court rather than in juvenile court in any of the following circumstances: (1) state laws mandate such processing for certain offenses within a set age range (statutory exclusion), (2) prosecutors decide on a criminal proceeding with limitations based on offense and age (prosecutorial discretion), and (3) the juvenile court judge decides to waive the case within limits based on offense and age (judicial waiver).²³

A trend toward harsher punishments for juvenile offenders, including the death penalty, began in the 1980s. In 2005, however, the U.S. Supreme Court decided (*Roper v. Simmons*²⁴) to raise the minimum age for eligibility for the death penalty to 18 years. A high proportion of cases involving juvenile offenders are handled informally by means of cautions or counseling. The procedure followed in juvenile courts is also distinct from that of criminal courts. Juvenile courts normally have not been concerned with determining guilt or innocence so much as with making a finding of fact—that the juvenile is, for one reason or another, legally subject to the jurisdiction of the court. This finding of fact is comparable to conviction at a criminal trial in an adult court and is generally referred to as adjudication. An increasingly popular approach,

²¹ Dünkel, F, Grzywa, J, Horsfield, P & Pruin, I (eds.) 2011, *Juvenile Justice Systems in Europe – Current Situation and Reform Developments*, 2nd ed., Mönchengladbach: Forum Verlag Godesberg (cited Dünkel et al.).

²² Dünkel, F & Pruin, I 2012, ‘Young adult offenders in the criminal justice systems of European countries’ in *Young adult offenders Lost in Transition?* eds F Lösel, A Bot- toms, & D Farrington, London, New York: Routledge: pp. 11–38.

²³ Jensen, EL & Jepsen, J (eds.) 2006, *Juvenile Law Violators, Human Rights, and the Devel- opment of New Juvenile Justice Systems*, Oxford, Portland/Oregon: Hart Publishing.

²⁴ 543 U.S. 551 (2005)

known as “restorative justice,” has been used especially in cases of delinquency unrelated to gangs. Essentially, restorative justice attempts to make the juvenile offender aware of the consequences of his actions for the victim, with the larger aim of developing in him a sense of responsibility and accountability. This approach also sometimes requires the offender to pay restitution or to compensate the victim in some meaningful way. By effecting a kind of reconciliation between offenders and their victims, restorative justice seeks to reintegrate the offender into the community and to foster agreement between the parties that justice has been served.²⁵

Continental Europe

Each European country, in the past, implemented programs suited to its own history, culture, and values. France, for example, placed priority on the educational and emotional needs of youth. The country passed its first juvenile court legislation in 1912, which created a court dedicated to handling juvenile cases. A more comprehensive system in use since 1945 is based upon the Tribunal for Children, a court composed of three members, one of whom is a juvenile judge. Lesser offenses committed by youths are handled by a children’s judge who functions as a magistrate and who is charged with both investigating and judging minor cases involving juveniles.²⁶

Examples of juvenile criminal cases being treated separately from adult cases can be found in early Germanic law. Although concerns over juvenile justice strengthened in the 1870s, it was not until 1923 that Germany established a separate system of juvenile courts.

The contemporary juvenile system in Germany reflects the practices that developed in the Federal Republic (West Germany) after World War II. Status offenses do not exist in the German legal system, but German youths who exhibit delinquent behaviour are often handled by the welfare system and by a guardianship court (family court). German law also recognizes three juvenile categories: children (those under 14 years of age, who are presumed to be not responsible for their actions because of their youth), juveniles (those between the ages of 14 and 18), and adolescents (those between the ages of 19 and 21). Generally, adolescents are considered more accountable for their actions than juveniles.

Prosecutions of juvenile cases also differ depending on the seriousness of the offense: relatively minor cases (involving less than one year of incarceration) are handled by a juvenile court judge; more serious cases are heard by a tribunal composed of one juvenile judge and two lay judges; and the most serious cases are reserved for another mixed tribunal consisting of three trained judges and two lay judges.²⁷

China

In China, juvenile justice is defined by traditional, communal, and familial principles that nevertheless reflect the influence of communism. Traditionally, the Chinese system was informal, depending on corrective measures instituted by schools and parents. Yet China’s

²⁵ Junger-Tas, J & Decker, S H. (eds.) 2006, *International Handbook of Juvenile Justice*, Doordrecht: Springer.

²⁶ *ibid*

²⁷ Nelken, D 2009, Comparative criminal justice: Beyond ethnocentrism and relativism, *European Journal of Criminology* 6: 291–311.

burgeoning juvenile population, which exceeded 300 million in the early 21st century, requires a well-organized and far-reaching system for handling youthful offenders. Although the country began, after World War II, to incorporate more formal legal principles and procedures into its system of handling juveniles, the process was virtually halted by the Cultural Revolution (1966–76). Although juvenile justice programs subsequently reemerged, the country nonetheless operates one of the youngest systems of juvenile justice among the world's major economic and political powers.²⁸

The contemporary Chinese approach can be traced to Shanghai, where the country's first juvenile court was established in 1984. China follows most Western standards in setting 18 as the age of criminal responsibility, but it also assigns lower levels of responsibility beginning at age 14. China does not recognize status offenses, and responsibility for the correction of problematic juvenile behaviour thus lies with parents and schools, in keeping with traditional Chinese customs and practices.²⁹

Philippines

In the Philippines, which was a colony of the United States from 1898 to 1946, a juvenile court system was established with the U.S. system as its model. The first delinquency law was created in 1930 (as part of Article 80 of the Revised Penal Code), but it was not until 1955 that the first juvenile court was established, in Manila.³⁰

It was replaced by a strong and far-reaching *barangay* system, legally established in 1978 and based on principles of reconciliation and informal mediation. Virtually all minor cases of juvenile misbehaviour (and many serious ones as well) are handled within this system, which explicitly excludes lawyers and the advocacy approach to resolving citizen complaints. More serious cases of juvenile offense are officially handled by the national Department of Social Welfare and Development. The passage in 2006 of the Juvenile Justice and Welfare Act placed new emphasis on restorative justice and declared juveniles under the age of 15 to be criminally exempt.³¹

Brazil

In Brazil, juvenile delinquency is covered under the provisions of the Statute of the Child and Adolescent. This act has been revised several times. The Minor's Code, for example, had focused on removing delinquent children from the streets; it was replaced in 1990 by the Child and Adolescent Statute, which placed greater emphasis on reinforcing responsible behaviour in children. The age of majority—which signals the age of criminal responsibility in addition to voting privileges and other rights—is 18.³²

²⁸ Smith, D J (ed) 2010, *A New Response to Youth Crime*, Cullompton: Willan Publishing.

²⁹ *ibid*

³⁰ Tonry, M 2004, *Punishment and Politics*, Cullompton: Willan Publishing.

³¹ Tonry, M 2004, *Punishment and Politics*, Cullompton: Willan Publishing.

³² Muncie, J, Goldson, B (eds) 2006, *Comparative Youth Justice*. London, Thousand Oaks, New Delhi: Sage Publications.

Cases involving young offenders (generally defined as preadolescents) are usually handled within a tribunal system known as a council of guardianship. Every municipality in Brazil is required to have at least one such tribunal. Cases involving older children are typically handled within the juvenile court system. Both systems can use a variety of dispositions (i.e., punishments and rehabilitation programs), all aimed at reintegrating the offender into the community; these include admonition (basically, a stern warning), community service, and “assisted freedom,” which means being supervised in the community in a format similar to probation. Older youths—that is, those up to the age of 21—can also be subject to confinement or incarceration.³³

Egypt

In Egypt, delinquency is a governmental concern, and juvenile offenders are usually not referred to parents for correction, except in cases of children whose behaviour indicates the possibility of future delinquent behaviour. Through a delinquency law passed in 1974 (revised in 1996), Egypt established 18 as the age of majority, although rehabilitative efforts and incarceration can last until age 21. Juvenile offenders under the age of 15 are for the most part not subject to punitive measures from the state.³⁴

V. DISCUSSION & CONCLUSION

From the above discussion, it stems that the roots of ‘juvenile delinquency’ lie in poverty, unemployment, illiteracy, lack of family planning and numerous other factors which lead to an unhealthy social environment around young children, leading to severe behavioural issues and many-a-time, criminal instincts. Despondence, coupled with challenging socio-economic conditions may also push a child to the verge of committing a crime. Thus, the most effective way to deal with the subject is to eliminate its very origin and genesis.

The Indian Parliament has made a noteworthy move by enacting the Juvenile Justice Act of 2015. Among the many positives of the act, is the new clause on fair trial, under which the assessment will look into the special needs of the child, under the tenet of fair trial under a child-friendly atmosphere. The child will not suffer from any disqualification that arises from any conviction under the Act. Also, the records of any conviction will be destroyed after the expiry period of appeal, except in the case of heinous crimes. The most notable amendment is that now 16-18 year olds can be tried as adults for criminal offences if the Juvenile Justice Boards supports the same. Also, juveniles can now be sentenced to prison for a maximum of 7 years. This, as per the author, is a commendable move as deterrence is a crucial factor in prevention of crime. The act strives to strike a balance by also introducing rehabilitation measures and reformative programmes for offenders. However, cue could still be taken from developed countries to better the reformative programmes and activities while keeping the approach towards the subject, virtually unchanged. Countries like the United States offer mediation and community reintegration programmes for juveniles while in few European countries, the system of education for juveniles is highly systematic and governed by highly specialized agencies. Also, once the juveniles are released, there is no monitoring system in

³³ *ibid*

³⁴ Jensen, EL & Jepsen, J (eds.) 2006, *Juvenile Law Violators, Human Rights, and the Development of New Juvenile Justice Systems*, Oxford, Portland/Oregon: Hart Publishing.

India and the same needs to be established to govern the rehabilitation of a juvenile offender. There is also the need to identify, in each case, the underlying cause of criminal behavior and address the same. Therefore, though the Juvenile Justice (Care and Protection of Children) Act, 2015 addresses the major issues and adopts a commendable approach towards juveniles, there is still scope for tackling the issue from its very roots and also adopting the examples and rich practices set by other countries in addressing the severity of the subject.

VI. RECOMMENDATIONS

Based on the above discussion, the recommendations made by the author are sub-divided into the categories of 'Preventive Measures'- which prevent 'juvenile delinquency' and 'Supportive Measures'- which supplement the solicitous provisions for juveniles in India.

Preventive Measures

- Prevention efforts need to be comprehensive in scope including activities such as substance abuse education and treatment, family counseling, youth mentoring, parenting education, educational support, and youth sheltering.
- Increasing availability and use of family planning services, including education and contraceptives to eliminate the risk factors for delinquency.
- Education is the great equalizer, opening doors to lift families out of poverty while promoting economic growth, national productivity, innovation, and values of democracy and social cohesion and should be greatly emphasized through education aids to the young people to interact more effectively in social contexts, therefore diminishing need for delinquency.

Supportive Measures

- The child should have the right to a lifelong relationship with his/her family. Hawaii law could be implemented in India for re-establishing the family-child relationship upon release of the juvenile. In Hawaii, the Department of Public Safety has been directed to "institute policies that support family cohesion and family participation in offenders' transition to the community." A Transformational Justice Interagency Task Force should be constituted to, among other things, develop and establish healthy relationships among affected families.
- Articles, stories, or workshops on the needs of juveniles could both inform and bring together key players including schools, churches, and local service providers.
- Children should be sent to well-established schools inside of correction homes to be imparted proper formal education. There should be a structured approach towards imparting education. Schools are a key place to establish a support system for children both directly through support groups or school counselors, and indirectly by educating other students about the realities of having a parent in prison.
- Following California law, appropriate authority should be directed to examine newly committed juveniles to determine the existence of any strong community and family ties, the maintenance of which could aid in the child's rehabilitation.
- The child should have the right not to be judged, blamed or labeled. Guidance should be produced about appropriate media reporting of juvenile arrests, so as not to stigmatize the children directly or indirectly.
- Following Singapore, when any juvenile has presumably spent three years in the

juvenile home, the medical officer must report whether the child is mentally and socially fit or not. If it is proving to be injurious to the child's mental or physical health and well being, the child must be given immediate attention. An opinion from the Child Welfare Services should also be required.

- A separate agency should be established to collect and analyse data regarding the juveniles upon their release and in consonance with Child Welfare Services, to aid in rehabilitation of the juveniles upon release. These programs provide an extended period of supervision, surveillance, and service delivery for youth returning to the community after confinement, to help prevent recidivism during this transitional period.
- Following U.S. law, mediation and restitution programs should be implemented. They would involve offenders and their victims in mediation sessions, in which offenders come to understand the harm caused by their actions, victims gain insight into the offenders' motivations, and both parties agree on plans for repaying victims/restoring their losses to the extent possible.

The ultimate question is- what does justice seem to serve. The state cannot exercise its punitive powers in order to be vengeful, to extract an eye for an eye, to punish in a manner that can only be described as primitive. It must strive to use the justice mechanism as a corrective implement, to create deterrence while endeavoring to rehabilitate the young and shelter posterity. 'Juvenile Justice' rests in corrective reformation and objective rectitude.

