

# Role of Judiciary in the Elimination of Juvenile Delinquency in the Present Social Justice System

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**Abstract :** “A child may be a person who will carry on what you have got started,” Abraham Lincoln said over a century ago. He will sit where you are and, after you are gone, he will decide what he thinks is important. You can make any plans you want, but he will determine how they are carried out. He will take control of your churches, schools, colleges, and businesses. He holds the futures of humanity in his hands. Children’s crimes are illegal actions that go against social standards. Child misconduct refers to criminal acts committed by children, with behavioral issues being a major cause of youth crimes in India. Child crime is a global issue, and many laws have been made to address it. These children may also engage in other criminal acts, including domestic abuse and disrespect towards women. The juvenile justice court ensures children have their rights, but may punish them in serious cases. The rate of crime among youths under 16 has increased in recent years, possibly due to factors like their upbringing, financial issues, a lack of education, or poor parental care. A concerning trend is the use of very young children, especially those under five to seven years old, as tools for committing crimes, as they are easily manipulated.

**Keywords:** Juvenile Delinquency, Crimes, Juvenile Justice, Judiciary, IJJO, BNS, BNSS.

**Introduction -** The Juvenile Justice Act, 2015 was passed to address the increasing crime rate among children under 18. It mandates the establishment of a Juvenile Justice Board and Child Welfare Committee in each locality, focusing on adolescent recovery and care through various adjustment homes. The Act defines a child as someone under 18 years old and classifies them as either in conflict with the law or in need of care and protection. It also includes a provision to treat juveniles between 16 and 18 as adults in cases of serious offenses. The Act also addresses the issue of 39% of Child Care Teachers not enrolling in 2020, highlighting the need for revisions. Key amendments include incorporating genuine offenses with a sentence of more than 7 years without minimum and changing sentences with a sentence of 3 to 7 years from being cognizable to non-cognizable. The Act also amends some provisions related to selection and Child Welfare Committees.

Juvenile courts provide a unique and effective method to address adolescent wrongdoers, providing fundamental security to children who cannot legally protect themselves. The Adolescent Equity Board is a Juvenile Court established under sec- 4 of the Juvenile Justice Act (2015), which mandates the establishment of at least one Juvenile Justice Board in each district, consisting of a Principal Magistrate and two social workers, at least one of whom should be a woman. However, the order passed by the Board was deemed void ab initio in State of Himachal Pradesh v. Happy

(2019).

The Board is responsible for handling cases involving children in conflict with the law, which can be appealed to the High Court or Session Court. It can inquire into heinous offenses and conduct preliminary assessments within three months. The Board must inform parents and ensure child rights are protected during the inquiry and rehabilitation process. They can provide a translator if needed, transfer children to committees, and file First Information Reports. The Board also conducts inspections of residential facilities and recommends improvements in service quality.

Juvenile delinquency, involving illegal activities, is on the rise in India due to an increase in crime rates. The Nirbhaya Case of 2012 highlights the heinous offense of rape committed by a 17-year-old girl in a bus, which led to authorities changing the law to punish juvenile offenders, despite their right to think about their actions.

Juvenile delinquency in India is attributed to harsh disciplinary measures by parents and teachers, bad peer company, Attention Deficit Hyperactivity Disorder (ADHD), and other mental disorders. Teenagers often fall prey to harmful new behaviors, leading to illegal acts. Social factors like broken homes, poverty, and beggary also contribute to delinquency in children in India.

The Indian legal system has evolved over time to address juvenile delinquency, with the first legislation being the Apprentices Act of 1850. The Reformatory Schools Act

of 1897 aimed to send children to reformatory schools, while the first Juvenile Justice Act of 1987 aimed to protect, rehabilitation, and reform juvenile delinquents. The Juvenile Justice Act of 2000 and the Juvenile Justice Act of 2015 further emphasized the importance of juvenile justice. The Indian judiciary plays a crucial role in addressing child delinquency, with the Juvenile Justice Board and courts making decisions that affect children. Governments have established Juvenile Courts, Boards, and Child Welfare Committees to regulate minor delinquents. However, the number of crimes committed by children aged 15-16 has increased, largely due to factors such as early-life experiences, dominant masculinity, upbringing, economic chaos, and lack of education.

**Difference between child and juvenile:** A minor is a person under the age of eighteen who does not have full legal responsibility. A kid accused of a crime goes to a Child Care Centre, while a juvenile is between sixteen and eighteen. Both terms relate to young people, but have different legal meanings.

**Juvenile justice and constitution of India:** The Indian Constitution is known as the country's fundamental law, outlining the rights and responsibilities of citizens. It also includes rules for the effective functioning of the government. Part III describes the Fundamental Rights of citizens, while Part IV details the Directive Principles of State Policies (DPSP), offering guidelines for creating government policies. Key rights for children's welfare include: the right to free education for children aged 6 to 14 (Article 21A), protection from hazardous work for those under fourteen (Article 24), shielding from abuse by adults (Article 39(e)), safeguarding against human trafficking (Article 39), and ensuring proper nutrition and living standards (Article 47). Additionally, Article 15(3) gives the state special powers to create laws for the upliftment of children and women.

**International concerns for juveniles:** The Convention on the Rights of the Child, adopted by the UNGA in 1989, prioritizes children's best interests. It emphasizes several rights:

1. Right of survival, ensuring children have a proper standard of living, including healthy nutrition.
2. Right to protection from inhumane practices, trafficking, and armed conflicts.
3. Right to participation, allowing freedom of speech, expression, religion, and opinion.
4. Right to development, covering educational, physical, mental, cultural, and recreational growth.

Article 34 safeguards children from sexual exploitation, while Article 37 states that imprisonment should be a last resort and for the shortest time, promoting children's liberty and focus on their reformation.

The law in the U. K. states that children should not be prosecuted in criminal courts. Delinquency can end with proper reform in remand homes, and only Juvenile Courts should handle these cases. The Children and Young

Offenders Act of 1933 and the Criminal Justice Act of 1948 support this. The 1908 Children Act allows for a separate Judicial Board in Juvenile Courts.

The system in the U. S. is simpler. First, the Police Officer will either keep the child in custody or release him. Then, he must inform and hand him over to the Juvenile Court. After the trial, children go to correction homes and are tried as adults only if they are closer to adulthood or commit crimes repeatedly that pose a danger to society.

**The International Juvenile Justice Observatory (IJJO):** It is an international organization that promotes policies and laws for the development and protection of juveniles worldwide. It also provides information about juveniles in conflict with the law.

**Doctrine of "Doli Incapax":** The concept of 'Doli Incapax' is a key principle in Criminal Law regarding a child's ability to commit a crime. In Indian law, this means that no child under seven can be tried for a crime. 'Doli Incapax' signifies a person's inability to commit a crime due to their age. As outlined in the UN Convention on the Rights of the Child, countries must set a minimum age for children's exemption from criminal responsibility due to their lack of understanding of their actions. For children aged 8 to 14, prosecutors must prove the crime. The aims of this doctrine include protecting children from harsh punishments and using reformatory approaches, acknowledging that children under seven lack the mental capacity to grasp the consequences of their actions.

**Penal provisions and related judgments:** Sections 82 and 83 of the Indian Penal Code, 1860 (now u/s 20 and 21 of BNS, 2023), discuss how juveniles are protected from prosecution. In *Kakoo v. State of Himachal Pradesh*, the Supreme Court reduced the sentence of a 13-year-old boy for raping a 2-year-old, emphasizing reformatory measures for juveniles. However, in *Heeralal v. State of Bihar*, a boy was judged mature enough for his actions after threatening and stabbing someone. The Supreme Court denied the appeal.

**The policy plays a vital role:** In the Juvenile Justice System, police officers act as gatekeepers, making initial decisions on how cases are handled. They have significant discretion, leading to only a few cases being pursued out of many incidents. When police receive information, juveniles must be placed in Special Homes instead of jails, with a Child Welfare Officer handling the situation and reporting to the Juvenile Justice Board. Police may grant bail based on initial facts. Interactions between police and youths often involve fear and distrust, while abrasive police behavior can worsen the situation.

**Analysis of the issue:** Analysis shows that poverty, broken homes, family tensions, emotional abuse, rural-urban migration, declining social values, parental abuse, a poor education system, and media influence are key factors contributing to child neglect and delinquency. Neglect by parents and society harms children's physical, mental, and

overall development.

In India, many of these factors are prevalent, and addressing them can help society. Children's well-being is essential for the country's future, supported by international agreements focused on juvenile justice and children's rights. This article discusses the growth of India's juvenile justice system, its constitutional framework, the Juvenile Justice Act of 2015, and the current state of delinquency, which has shown a concerning increase.

**Role of the judiciary:** The judiciary in India is crucial for protecting child rights and has made significant rulings. In *Sheela Barse v Union of India*, the Supreme Court directed the state to set up observation homes for minors accused of crimes during legal processes. The court also emphasized the need for juvenile courts and officials to ensure children's safety in these homes. In *Vishal Jeet v Union of India*, it ordered state governments to fight child prostitution and support juvenile victims. In *M. C. Mehta v State of Tamil Nadu*, the court ruled on child labor abolition and provided guidelines for education and health. Lastly, in *Sakshi v Union of India*, it instructed the government to research ways to prevent child abuse.

**Jurisdiction of the juvenile court:** The High Court ruled in *Om Prakash vs. State* that a juvenile court can handle a juvenile case even if it cannot confirm the accused's age. The High Court verified the person's age, determining he is not a child and sentencing him as an adult.

Section 20 of the Juvenile Justice Act outlines rules for children's cases in juvenile courts. The Minor Act addresses pending cases for minors in violation of the law, stating that "any court" means all criminal courts and that juvenile cases are not heard in criminal courts.

**Bail of the child:** Under the Juvenile Court's reasonable points, children are entitled to bail as defined by the Juvenile Justice Act. The Juvenile Board can deny bail for specific reasons. The NDPS Act addresses certain crimes that are considered a threat to society, and special laws have been created to manage these situations and the bail process.

In the case of *Gopi Ram vs. State of Haryana*, the court ruled that if it believes the accused may be innocent, it has the authority to grant bail. The court also stated that if the accused shows remorse and believes he will not commit a similar crime again, he should be released. According to both Section 437 of the Cr. P. C. (now u/s 480 of BNSS, 2023) and Section 37 of the NDPS Act, the burden of proof lies with the prosecution to prove guilt, while the accused must show grounds for proving innocence. The NDPS Act has strict bail conditions due to the serious nature of the offences it covers.

Section 439 of the Cr. P. C. (now u/s 483 of BNSS, 2023) also deals with discretionary powers regarding bail and is affected by Section 37 of the NDPS Act, which generally makes bail denial the norm. There are no provisions for anticipatory bail under the NDPS Act, but some special courts can hear applications for anticipatory

bail under Section 438 of the Cr. P. C. (now u/s 482 of BNSS, 2023) Anticipatory bail, also known as pre-arrest bail, relates to Section 20 of the TADA Act and Section 37 of the NDPS Act. If a court is liberal in its approach, it should consider granting bail if it believes the accused is not guilty. Certain conditions must be met before granting bail to someone accused under the NDPS Act: the court must have reasonable grounds to believe the accused is not guilty and is only being held due to the actions of others, and it must consider the likelihood of the accused committing a crime while released on bail. The historic case *Jitendra Singh vs. State of U. P* states that reasonable grounds are required for bail acceptance, and bail may be denied if these grounds are lacking.

The Juvenile Justice (Care and Protection of Children) Act, 2000, aligns with the United Nations Convention on the Rights of the Child, raising the minimum age for boys and girls to 18 years. It categorizes children into "children in need of care and protection" and "children in confrontation with the law." Each group receives different treatment regarding care, legal proceedings, and case outcomes. The Child Welfare Committee manages children needing care, while the Juvenile Justice Board handles those in conflict with the law. The Act establishes Observation Homes, Special Homes, and Comprehensive Children's Homes for different categories of children, and promotes community service, counseling, and rehabilitation options like adoption and sponsorship.

Under the Act, police have specialized roles, with every station having a Special Juvenile Police Unit (SJPU), and a Child Welfare Officer supports this unit. The Act also introduces social audits and ensures that voluntary organizations help bring children before the Child Welfare Committee. A juvenile cannot be detained in police custody or jail, and efforts must be made for release on bail or probation. Inquiries must be completed within four months unless extended and state governments are responsible for the Act's implementation.

**Juvenile Justice (Care and Protection of Children) Act in 2015:** The Juvenile Justice (Care and Protection of Children) Act enacted in 2015 brings a new approach to handling child offenders in the country. Its main goal is to focus on rehabilitating and reintegrating child offenders into society. The Act acknowledges the unique needs and vulnerabilities of young individuals involved in crimes and categorize them based on age, distinguishing between "children in conflict with the law" and "children in need of care and protection." It encourages engaging delinquent children in alternative programs for rehabilitation rather than traditional punishments, promoting their welfare and successful social reintegration. The Act also emphasizes restorative methods over punitive ones to ensure the well-being of young offenders.

**Problems in administration of justice:** There are several problems in managing justice for child delinquency. First,

many states, following the Juvenile Justice Act of 2015, have not set up juvenile courts in all districts. This leads to non-experts making decisions about children. While this may be legal, it may not align with the law's intention. Juvenile courts should include social workers, and judges must understand child psychology and welfare. Secondly, the system tends to focus on punishment instead of reform, which is not in the best interest of the child.

**Preventing child delinquency:** Early intervention is seen as the best way to prevent juvenile crime. It requires individual, social, and organizational actions to stop teens from breaking the law. Some methods focus on punishment to deter offenders. Economic programs and community involvement can also help prevent youth delinquency.

**Recommendations:** The Juvenile Justice Act of 2015 made important improvements in the treatment of juveniles in the justice system. It established a clear division between two categories of juveniles, set up a Juvenile Justice Board, and allowed for the trial of juveniles aged 16 to 18 for serious crimes. However, there are concerns. The age from 16 to 18 is a time of vulnerability due to hormonal and mental changes. Trying these juveniles as adults can have lasting negative effects on their minds. Critics argue this approach conflicts with Article 14 of the Indian Constitution, which promotes equality before the law, and the UN Convention on Child Rights.

To prevent issues in the future, the government should provide children with a basic living standard and focus on their education and recreation. There should be training programs focused on child psychology, and social workers should be involved during investigations. Police should handle juveniles carefully, and staff at shelter homes must be well-trained. Public awareness is also crucial for understanding and supporting these children.

**Conclusion:** Children are the future of the world, and it is important to have laws that prevent juvenile delinquency for a better society. Early intervention is crucial, especially for children from difficult backgrounds, and NGOs should help improve the lives of these children.

Youth crime rates in India are rising, which is a serious issue. The government has made laws to lower juvenile crime, but these laws do not effectively deter such behavior, leading to poor results. Juvenile justice focuses on reform rather than punishment, and the 2015 Act is a key guideline. The juvenile justice system aims to address misbehavior and promote reform as an alternative to punishment. If children receive the right support and education, they can

become responsible citizens.

It is essential to reduce societal issues by teaching children ethical and spiritual values, as well as understanding child development. Parents should pay attention to their children's mental health to guide them properly. While the judiciary provides some guidance on child care, support should happen in local communities. Despite laws against delinquency, the issue remains, so focusing on children's needs is vital for their growth. The juvenile justice system should be backed by a thorough action plan to aid all neglected children, requiring cooperation from individuals and the community.

#### References:-

##### Books:-

1. Batra, V. (2016). Juvenile Justice: A Comprehensive Study. LexisNexis.
2. Mathur, N. N. (2020). Law Relating to Juvenile Justice in India. Universal Law Publishing.
3. Singh, K. (2017). Juvenile Justice System in India. Central Law Agency.
4. Das, B. (2019). Juvenile Delinquency and Justice: A Socio-Legal Study. Eastern Book Company.
5. Singh, M. K. (2018). Juvenile Justice: Law and Practice. LexisNexis

##### Research Articles:-

1. <https://ijcrt.org/papers/IJCRT2402082.pdf>
2. Sarma, A., & Deb, S. (2017). "Role of Juvenile Justice Boards in India: An Analysis." Indian Journal of Law and Public Policy, 3(2), 23-39.
3. Patil, P., & Choudhary, M. (2020). "Rehabilitation of Juvenile Offenders in India: A Critical Appraisal." The Indian Journal of Criminology and Criminalistics, 41(2), 265-281.
4. Mukherjee, A. (2019). "Juvenile Justice in India: Challenges & Prospects." Indian Journal of Criminology and Criminalistics, 40(1), 78-94.

##### Websites:-

1. <https://indiankanoon.org/>
2. <https://www.nolo.com/legal-encyclopedia/juvenile-court-overview-32222.html>
3. <https://www.latestlaws.com/articles/overview-of-juvenile-justice-law-in-india-by-chhaya-khosla/>
4. <https://knowlaw.in/index.php/2021/03/17/juvenile-delinquency-a-rising-concern/>
5. <https://prsindia.org/billtrack/the-juvenile-justice-care-and-protection-of-children-amendment-bill-2021>

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