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## ABOUT US

“Journal of Unique Laws and Students” (JULS) which shall provide law students, young lawyers and legal professionals to deliberate and express their critical thinking on impressionistic realms of Law. The JULS aims to provide cost free, open access academic deliberations among law students and young lawyers. The ISSUE III of Volume I focuses on three themes i.e. (i) Arbitration Law (ii) Competition Law, and (iii) Criminal Law.

The journal strives to contribute to the community with quality papers on a vast number of legal issues and topics written by authors from various groups that have been reassessed and revised by our editorial team to reach the highest possible standard.

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## PREFACE

On looking at today's scenario, there are numerous issues to know about. Our journal's Issue III of Volume I has work on three crucial themes namely *Criminal Law*, *Arbitrational Law* and *Competition Law*. We would like to express our deep appreciation of the co-operation of the contributors, who so willingly devoted their time and energies.

We have tried to cover these wide topics with the relevant research and landmark judgments. We have used standard of words for the explanation, evenly attempted to clear the concepts and presented captivating writing to the readers. The works also contains some suggestions in respective fields.

The views expressed in the articles are purely and solely of the authors and the entire team of the Journal has no association with the same. Although all attempts have been made to ensure the correctness of the information published in the articles, the Editorial team shall not be held responsible for any errors that might have been caused due to oversight or otherwise. It is up to the rest of us to help make the journal a success story in the next several years.

## FOREWORD

As a member of the Advisory Board of Journal of Unique Laws and Students (JULS) which seeks to support student dynamism in action, I take pride in writing this very brief Preface to **Issue III of Volume I** of the Journal. Through this sturdy student-led initiative, the Journal provides young lawyers and law students of the opportunity to deliberate on legal issues of contemporary interest and to express their well-researched conclusions in the form of double-peer reviewed articles.

In this issue of the JULS I am happy to see a wide array of articles on *Alternate Dispute Resolution (ADR)*, *Arbitrability*, *Competition Law*, *Juvenile Delinquency*, *Gender Crime*, *Cybercrime*, *Criminalisation of Politics*, *Sedition and Witness Protection*. Laws and legal systems are dynamic in nature and laws evolve or are enacted to suit the changing needs of society. Young lawyers and law students can contribute to this dynamic process and even recommend law reform or analyse existing laws including case law. Young lawyers can also contribute to society as civil society activists engaged in efforts to improve the quality of law and its administration. The inculcation of critical thinking, which is one of the main objectives of the JULS, can no-doubt stand in good stead to young lawyers in moulding their future careers.

While I am happy that the very first issue of the inaugural volume of JULS was a tremendous success and its wide array of articles on diverse topics were well received by the legal fraternity, I take this opportunity to thank the contributors of articles as well as the vigilant and hardworking Editorial Board and my colleagues in the Advisory Board for the high standards achieved. In this Foreword, I take the opportunity to thank the publisher for coming out with another issue of JULS almost in time despite the trying conditions in which lawyers work and law students are placed, and I am glad that JULS through its on-line presence, is able to contribute immensely to this process of dissipation of legal knowledge and skills.

**Justice Saleem Marsoof PC**

**Judge of the Supreme Court of Fiji**

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## EDITOR'S NOTE

Unique Law was established in the month of April 2020 and cheerfully brings **Volume 1 Issue III** of **Journal of Unique Laws and Students (JULS)**. This journal has become a successful climb in reaching to our goal of gaining visibility in the academic front and becoming a great platform in education community.

The journal aims to present merit papers on the numerous legal issues and these topics are authored by various groups of individuals that have been reappraise and emended by our team of editors to attend the highest possible excellence. These research papers, case analysis and shortnotes are the result and we feel privileged to have been able to act as editors.

We thank to all our authors for their obedient submission to the third issue of the Journal by Unique Law and also for their productive cooperation with the editorial team to garnish their work with perfection. We would also like to express our gratitude to our diligent editorial board, whose restless support and commitment made this Journal's Issue III a success.



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## JUVENILE DELINQUENCY AND CRIME PREVENTION

**Author:** *Simran Karamchandani\**

### **ABSTRACT**

*Delinquent children are extraordinary children who display significant deviation in their social adjustment and are therefore labeled as socially deviant or socially impaired. They have been discovered to have criminal tendencies and to engage in antisocial behavior. In this regard, they are similar to criminals and antisocial elements. However, in legal parlance, they are referred to as delinquents rather than criminals.*

*The enormous increase in juvenile violence, notably killings, which began in the mid-1980s and peaked in the early 1990s, sparked widespread fear and concern among the public, prompting federal, state, and municipal governments to implement policy adjustments. For example, in response to the rise in juvenile violence and predictions of a new wave of increasingly violent youth, most states tightened their juvenile justice laws, including measures that allow, or in many cases require, children to be transferred to the adult system at younger ages and for a wider range of offences. A considerable body of research has begun to identify characteristics that may raise the risk of adolescent crime. The research has also resulted in the development and evaluation of prevention interventions.*

**Keywords:** *delinquent, juvenile, crime, behavior*

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## **INTRODUCTION**

Juvenile delinquency is defined as criminal conduct committed by a person under the age of 18. These criminal acts have been on the rise in recent years for a variety of reasons and circumstances. Juveniles charged with major offences, such as robbery or murder, are usually transferred to criminal courts and tried as adults. Prosecutors occasionally make this choice, and sometimes transfers require a hearing to evaluate the juvenile's age and record, the sort of offence, and the possibility that the minor can be rehabilitated by the juvenile court. As a result of a tough-on-crime mentality, many counties have amended their juvenile rules to make it simpler to transfer juvenile offenders to adult court.

In a nutshell, juvenile delinquency is the participation of juveniles in criminal actions. A juvenile delinquent is someone who is under the age of 18 who performs an act that would normally be charged and tried as an adult. So it is evident that juvenile delinquency is a component of all the behavioral changes that occur in a person's life while going through the stormy age of adolescence, however, it is not prevalent in every adolescent.

Unless and until the particular behavior becomes a worry of the society, the level of delinquency fluctuates and will stay unnoticeable. During this era, one goes through quick revolutionary changes in their physical, mental, moral, spiritual, sexual, and social perspectives, as the teenage years are the transitional period. They are emotionally unstable and there are frequent changes in mood. It is a time of anxiety, conflict, and complexity. Therefore people do various things during this period to satisfy one urge or the other that often lead to crime.

Government policy on youth crime should often battle with a balanced approach to the good development of children and youths who violate the law and the desire of the public to punish criminals. This contrast between reconstruction and punishment for children and teenagers committing crimes gives juvenile offenders an ambivalent approach. It is necessary to suppress, condemn and punish criminal conduct. However, children and young people engaged in crime must be educated and encouraged in an expansion process that should be the goal of government policy for all youth, including youth criminals.

Delinquent children belong to that unusual category of youngsters with major socially adjusted differences, which are therefore also marked as socially deviant or socially disabled. They show criminal conduct and are punishable by judicial proceedings. Breaches of societal standards

and ideals endanger society's peace and are thus are regarded as crimes. The nature of the crime may vary from very mild to severe, but they are always anti-social and hence legally criminal. However, in legal parlance, they are referred to as delinquents rather than criminals. Overall, juvenile delinquency is a legal word that refers to acts with varying degrees of social consequences, ranging from little misbehavior to significant assault punishable by law.

## **WHO IS A JUVENILE?**

A juvenile is someone under the age of 18. The law should specify the age limit below which it is not permissible to deprive a child of his or her liberty<sup>1</sup>. A juvenile is a youngster who has not reached the legal age at which he, like an adult, can be held accountable for his illegal conduct. The juvenile is the youngster who is accused of committing some act or omission on the part of the child that has been labeled a criminal. In the legal world, the phrases juvenile and minor are used in distinct contexts. The term juvenile refers to youthful criminal offenders, whereas the term minor refers to the legal ability or majority. To clarify the meaning, a referral to another source can be beneficial. For the sake of convenience, the concept of the juvenile varies from state to state<sup>2</sup>.

## **JUVENILE DELINQUENCY IN INDIA**

In accordance with international standards and under the Indian youth justice system, a kid or child cannot be tried as an adult. A juvenile is treated as doli incapax and is unable to comprehend the repercussions of his/her actions. With this in mind, children are dealt with in the youth justice system and not in the criminal justice system for adults. Never can they be imprisoned or punished with death. In the capital city of Delhi, however, adolescent delinquency has grown at an alarming rate. The involvement of the youth in grave crimes such as murder, murder and kidnapping has sparked national worries. Following the brutal Gang rape in Delhi (*Mukesh & Anr vs. State for NCT of Delhi & Ors*<sup>3</sup> on 5 May, 2017) in December 2012 (or *Nirbhaya Case* as it was often referred to), numerous discussions and debates

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<sup>1</sup> Legal dictionary, juvenile delinquency, <https://legaldictionary.net/juvenile-delinquency/> (last visited Sept. 13, 2021)

<sup>2</sup> Shivani jani, Juvenile Delinquency And Crime Prevention, legal services India e-journal, <https://www.legalserviceindia.com/legal/article-5369-juvenile-delinquency-and-crime-prevention.html> (last visited Sept. 13, 2021)

<sup>3</sup> *Mukesh & Anr vs. State For NCT Of Delhi & Ors*, (2017) 6 SCC 1

highlighted the more smooth approach to grave crimes by the youth justice system. The young people have been discovered to be as violent as the adults, forcing them to review the concept of young delinquents and approach them in India.

## **THE DEVELOPMENT OF DELINQUENCY**

Research on normal child development and the development of criminal behavior over recent decades has revealed that individual, societal, community and interpersonal circumstances affect behavior. It is widely accepted that behavior includes anti-social and delinquent behavior, commencing with foetal development of the child and continuing throughout life, results in intricate interrelations between biological and genetic elements and environmental circumstances.<sup>4</sup> Genes clearly affect biological growth, but without environmental input there is no biological development. Biology as well as environmental impacts therefore on the conduct. Even in the face of various risks, many children reach adulthood without engaging in significant delinquent activity. Although risk variables can assist identify which children require preventative measures the most, they cannot predict which children would become major or chronic offenders. The majority of adult criminals were involved in delinquent behavior as children and adolescents; however, the majority of delinquent children and adolescents do not grow up to become adult criminals. Similarly, the majority of serious, chronically delinquent children and adolescents have a variety of risk factors, but the majority of those who have risk factors do not become serious, chronic delinquents. Furthermore, each individual component contributes just a small portion of the risk increase. However, it is commonly acknowledged that the more risk factors (poor parenting skills, family size, home discord, child maltreatment, and antisocial parents) a kid or teenager encounters, the greater are their chance of delinquent conduct.

The diversity of outcome behaviors explored is a problem with literature on risk variables. Certain research focuses on behaviors that satisfy diagnostic conditions for behavioral disorders or other anti-social illnesses; other studies focus on aggression, lying, and shopping; others rely as a result of interest on a juvenile court reference or arrest. In addition, at particular

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<sup>4</sup> Bock and Goode, 1996

periods of child and adolescent development various risk factors and different outcomes may be more prominent than at others<sup>5</sup>.

Most literature examining delinquent risk variables is based mostly on longitudinal studies of white men. Certain samples were selected from high-risk areas in particular. This book should be widespread among girls and minorities and to the public. In the last two decades, however, many of the risks of antisocial and delinquent conduct have been learned. The following are addressed social risk factors, including relationships between the family and peers. Finally, the risk factors of the community, including qualities of school and neighborhood, are considered.

### **THE DEVELOPMENT OF DELINQUENCY IN GIRLS**

Behavioral differences between boys and girls have been recorded. Infant girls have stronger emotional regulation than infant boys, and infant boys are more likely to be angry than infant girls. This could have ramifications for the development of behavioral issues and delinquency. Although peer-directed violent behavior appears to be similar in both girls and boys during toddlerhood<sup>6</sup>, boys begin to exhibit higher rates of physical aggressiveness than girls between the ages of 3 and 6. Rather than physical aggression, girls prefer verbal and indirect aggression, such as ostracism, character defamation, and peer exclusion. Internalizing illnesses, such as anxiety and depression, are more common in girls and may overlap with their behavioral issues. According to theorists, as a reaction to abuse and neglect, adolescent females may focus their rage and hurt inward. These inward-directed feelings might manifest as self-destructive behaviors including drug abuse, prostitution, and other self-destructive behaviors. Delinquency in both girls and boys is frequently preceded by some sort of childhood maltreatment. Some believe that one of the earliest steps in female delinquency is status offending (truancy, running away from home), which occurs frequently in response to harsh events at home<sup>7</sup>.

Based on the limited study on girls, it appears that they share many risk factors for delinquency with boys. Early drug use, affiliation with delinquent peers, and academic issues are among the risk factors. However, it was discovered that, on average, girls were exposed to fewer risk factors than boys (e.g., violence, early leaving home, low I.Q., frequent spanking, first-grade

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<sup>5</sup> Joan McCord, Cathy Spatz Widom, and Nancy A. Crowell, *Juvenile crime, juvenile justice*, national academy press, 122 (2001), <https://www.nap.edu/read/9747/chapter/6#122>

<sup>6</sup> Loeber and Hay, 1997

<sup>7</sup> See Supra note 5

absenteeism, and racial discrimination). Delinquent girls report major mental illnesses such as depression, anxiety, and suicide. In a survey of delinquent girls, Fully Half reported they thought of suicide, and roughly 64% of them thought more than once about suicide.

## **HISTORICAL BACKGROUND OF JUVENILE JUSTICE LAW IN INDIA**

In the modern period, a worldwide movement for the special treatment of juvenile offenders has begun, including many industrialized countries such as the United Kingdom and the United States of America. This movement began in the late 18th century. Previously, juvenile offenders were treated in the same manner as other criminal offenders. For the same reason, the United Nations General Assembly enacted a Convention on the Rights of the Child on November 20, 1989. This convention aims to protect young offenders' best interests. According to the Convention, there shall be no judicial proceedings or court trials against juveniles in order to protect their social reintegration. The Convention directs the Indian Legislation to repeal the Juvenile Justice Act of 1986 and enact new legislation. As a result, Indian Legislation enacted a new act known as the "Juvenile Justice (Care and Protection of Children) Act, 2000."

The Juvenile Justice Act of 1986, attempted to give effect to the standards included in the Standard Minimum Rules for the Administration of Juvenile Justice, which were agreed by the United Nations countries in November 1985. The aforementioned Act consists of 63 Sections and 7 Chapters and is applicable across India with the exception of the state of Jammu & Kashmir.

## **JUVENILE JUSTICE ACT, 2000**

This Act was enacted in the year 2000 with the goal of protecting children. It was amended twice by the legislature, first in 2006 and then again in 2011. The change was made to address the implementation gaps and loopholes.

Furthermore, the rising number of juvenile crime cases in recent years, as well as the harrowing tragedy of the "Delhi Gang Rape Case," has compelled lawmakers to enact legislation. The main disadvantage of the Act was that it contained ill-equipped legal provisions, and India's malfunctioning juvenile system was also a crucial factor in preventing juvenile crimes. The Juvenile Justice Act quickly superseded (Care and Protection) ACT, 2015.



## **JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015**

The Juvenile Justice (Care and Protection of Children) Act, 2015 has come into force from January 15, 2016, and repeals the Juvenile Justice (Care and Protection of Children) Act, 2000.

### Key Provisions:

- To remove the negative connotation associated with the word "juvenile," the Act's nomenclature was changed from "juvenile" to "kid" or "child in conflict with the law."
- Inclusion includes various new definitions, including orphaned, abandoned, and surrendered children, as well as minor, serious, and heinous crimes perpetrated by children.
- The clarity in the powers, functions, and responsibilities of the Juvenile Justice Board (JJB) and the Child Welfare Committee (CWC); precise timelines for Juvenile Justice Board (JJB) investigations; The Act requires that Juvenile Justice Boards and Child Welfare Committees be established in each district. Each must have at least one female member<sup>8</sup>.

Special provisions for heinous offences committed by children above the age of sixteen years- In accordance with Section 15, specific procedures were taken to deal with offenders who commit abominable crimes in the 16-18 age brackets. Following a preliminary evaluation, the Juvenile Justice Board is given the option of transferring instances of abominable crimes of such minors to the Children's Court. The regulations allow the children to be placed in a "safe location" both in and after the trial until they reach the age of 21 years after the child's assessment by the children's tribunal. The child is either freed on probation following the evaluation and if the child is not reformed, the youngster is transferred to prison for the remainder of the sentence. The legislation will operate as a disincentive to young criminals who commit atrocious crimes like rape and murder and protect victims' rights.

Separate new chapter on Adoption to streamline adoption of orphan, abandoned and surrendered children-To improve the efficiency of adoption procedures for orphaned, abandoned, and surrendered children, the existing Central Adoption Resource Authority (CARA) is elevated to the level of statutory authority. A separate chapter (VIII) on Adoption

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<sup>8</sup> Juvenile Delinquency Prevention, Impact Law, (last visited Sept. 13,2021)  
<https://www.impactlaw.com/criminal-law/juvenile/prevention>

contains extensive laws relating to adoption as well as penalties for failing to follow the prescribed procedure. Timelines for both in-country and inter-country adoption, including declaring a child legally free for adoption, have been streamlined. According to the rules, a single or divorced individual can adopt, however, a single male cannot adopt a girl kid.

*Mandatory registration of Child Care Institutions*-All child care institutions, whether run by the State Government or by voluntary or non-governmental organizations, that are intended to house children, either entirely or partially, must be registered under the Act within 6 months of the Act's enactment, regardless of whether they receive government grants. In the event of noncompliance, the legislation imposes severe penalties. Several rehabilitation and social reintegration programs have been established for children who have violated the law or who require care and protection. Children in institutional care are given a variety of services such as education, health, nutrition, de-addiction, disease treatment, vocational training, skill development, life skill education, counseling, and so on to enable them to play a constructive role in society<sup>9</sup>.

*Inclusion of new offences committed against children*-The Act includes several new crimes against minors, which until now have not been effectively covered by any previous law. This includes: sales, acquisition and illegal adoption, body punishment in childcare institutions, use of children by activist groups, disability offences, and kidnapping and kidnapped. Penalties were stipulated to abduct or sell a child for the cruelty of a child, present a drug substance to a youngster. Any officer who fails to report a kid abandoned or orphaned within 24 hours is responsible for up to six months jail or for a fine of Rs 10,000 or both. The punishment for not registering childcare facilities is up to a year in prison or a one lakh rupee penalty or both. A penalty of up to seven years or one lakh rupee, or both, is imprisonment for feeding children poisoning liquors, narcotics or psychotropic drugs.

## **CHILDREN IN NEED OF CARE AND PROTECTION**

*Observation home:* Those children are being taken to an observation house where they will only be held for a limited period of time while an investigation or trial is conducted. This institution is also used to custody children or youths under trial who are pending or waiting to be sent to a suitable family or a borstal in disagreement with legislation.

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<sup>9</sup> United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), United Nation Human Rights, (last visited Sept. 13,2021)  
<https://www.ohchr.org/en/ProfessionalInterest/Pages/PreventionOfJuvenileDelinquency.aspx>

For neglected youngsters, children's homes are provided for those in need of short-term regulatory protection but no long-term residential training is required.

A youngster who is in a need of care and protection has to be presented to the Kid Welfare Committee within 24 hours. The Act requires that a kid who is found separated from their guardian is to be reported for compulsory reporting. Non-reporting was considered an offence punishable. The Child Welfare Board shall refer children in need of care and protection to an authorized child care agency and instruct them to perform a social investigation with a social worker, caseworker, or child welfare officer within 15 days. The Child Welfare Committees shall meet at least 20 days a week and a quarterly review of the operation of the Child Welfare Committee shall be undertaken by the District Magistrate.

*Special homes or correctional facilities:* The Juvenile justice legislation of 2000 also provides for the establishment of correctional facilities for the keeping of delinquent juveniles. In these homes, delinquent juveniles have access to basic comforts such as housing, medical care, education, and vocational training.

In a children's home for education, treatment, care, development, training, and rehabilitation, a kid in need of care and protection shall be placed. The law provides for open shelters for children who require short-term care to protect themselves from abuse or from street life. The Committee on Children's Welfare could acknowledge an enabling facility for a youngster that takes temporary responsibility. The Specialized Adoption Agency is responsible for rehabilitating children who are orphans, abandoned or abandoned.

Because of mismanagement and a lack of clear vision, as well as infrastructure, homes have become crime nurseries for adolescents in conflict with the law.

The primary goal of a Children's Home/Specialized Adoption Agency/Open Shelter shall be to take care and protection of a kid. Individual Care Plans shall be prepared by the Child Care Institution for children in need of protection and care or children in conflict with the law, ideally through family-based care. Any youngster who reaches the age of 18 and leaves a child care institution may be eligible for financial assistance.

## **PATTERNS AND TRENDS IN JUVENILE CRIME AND JUVENILE JUSTICE**

Since the late 1980s, there has been growing concern about young people committing crimes. News accounts of serious crimes committed by children and adolescents, as well as criminologists' warnings of a rising tide of vicious juveniles, sometimes referred to as super predators<sup>10</sup>, have contributed to a widespread belief that young people are becoming increasingly violent and uncontrollable, and that the juvenile justice system's response has been insufficient. In response to evidence of increased juvenile violence, state and federal legislators proposed, and most states passed, laws making the juvenile system more punitive and allowing younger adolescents and children to be transferred to the adult system for a broader range of offences and in a broader range of ways<sup>11</sup>.

Arrest statistics, victim reports of crimes, and self-reporting of infractions are three common methods for measuring crime. These sources may produce varying crime rates and trends. Each source has advantages and disadvantages, and each provides just a partial picture of crime. This section discusses several data sources, as well as their advantages and disadvantages.

## **MAIN CAUSES OF JUVENILE DELINQUENCY**

Understanding the reasons of juvenile delinquency is essential for avoiding a young person from engaging in inappropriate, harmful, or unlawful behavior. Individual, familial, mental health and substance addiction are four key risk variables that can identify young people who are prone to delinquent behavior. A child is frequently exposed to risk factors from more than one of these classifications<sup>12</sup>.

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<sup>10</sup> see, e.g., Bennett et al., 1996

<sup>11</sup> See supra note 5

<sup>12</sup> Ivrita Gogua, Juvenile Delinquency – Causes, Prevention, and the Ways of Rehabilitation, Penal Reform International, (June 23,2020) <https://www.penalreform.org/blog/juvenile-delinquency-causes-prevention-and-the-ways-of/>

**INDIVIDUAL FACTORS:**

Various risk factors for adolescent delinquency are recognized such as impulse, uncontrolled assault and failure to defer satisfaction. Multiple risk factors can in many cases be recognized as contributing to the engagement of juveniles in harmful, destructive, and unlawful behaviors.

**FAMILY FACTORS:**

The development of delinquent behavior in young individuals is related to a persistent pattern of family risk factors. The family risk factors include inadequate parenting, continuous disagreement between parents, neglect and abuse (emotional, psychological or physical). There may be children who believe in the same way when parents show lack of respect for the law and social norms. Finally, the children that show their parents' and their families' weakest attachment are exactly the same young people, including criminal behavior<sup>13</sup>.

**MENTAL HEALTH FACTORS:**

A lot of mental health problems also play a role in adolescent misbehavior. It is important to remember, however, that certain forms of mental health illnesses, most notably personality disorders, cannot be diagnosed in children. However, there are precursors to these problems that can be seen in childhood and end up manifesting as delinquent behavior. One of the most common is conduct disorder.

**SUBSTANCE ABUSE FACTORS:**

Substance abuse is present in the majority of cases of juvenile delinquency. Two tendencies in substance abuse and juveniles have been discovered. For starters, today's youths are utilizing more potent narcotics than they were even ten years ago. Second, some youths start using drugs at an earlier age. It has been discovered that children in primary schools are abusing dangerous illegal narcotics. The use of these illegal substances, as well as the illegal use of legal substances, pushes young people to conduct crimes in order to earn money for drugs. Furthermore, when using drugs and alcohol, juveniles are significantly more prone to engage in destructive, hazardous, and unlawful actions.

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<sup>13</sup> Supra note 2

**BIOLOGICAL FACTORS:**

Juvenile misbehavior is also explained by biological variables such as early physiological maturity or inadequate IQ. The hormonal changes in youngsters' bodies trigger their impulsive and rebellious behavior. Special precautions should be made to safeguard girls from prostitution and child pornography.

**SOCIAL FACTORS:**

Poverty and a lack of education are additional social variables that contribute to adolescent criminality. Substance usage habits also make youth more likely to commit crimes. Higher rates of delinquency are directly tied to broken households. These findings suggest that juveniles, who receive less parental supervision, live in dysfunctional family contexts, or come from underprivileged homes are more likely to engage in delinquent behavior.

It established age restrictions for criminal liability and exempted children under the age of seven from blame. Children between the ages of 7 and 12 were deemed mature enough to comprehend the nature of their actions. Social Media - Films and pornographic literature have also contributed to the rise in delinquency. In adolescence, sexual and other desires are frequently triggered by films and filthy books. As a result, they may begin their 'journey' by fulfilling them while committing crimes.

**ENVIRONMENTAL FACTORS:**

Delinquent behavior has been shown to be a learning reaction. Delinquents are not given criminal personalities by their parents or predecessors, but the surroundings and the social conditions that are unpleasant. Delinquency is not hereditary; it is the outcome of socio-economic situations and is primarily a coefficient of friction between the individual and the community. Environmental and sociological character is the major reasons of anti-social behavior. The social environment should therefore be held responsible for a child's delinquent actions, as in such conditions it detects criminal characteristics. It should therefore be the uncongenial family, school, neighborhood and society. Now we shall examine how the environment affects the formation of delinquency among minors<sup>14</sup>.

An inadequate and poor family setting represents a fertile basis for delinquent germination. Family life and crime are in fact intimately linked. The results from many studies indicate that

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<sup>14</sup> Supra note 12

the home environment, which is most sensitive to delinquency, with the following relationships or conditions:

A broken home is one in which the family is incomplete due to death, abandonment, separation, or divorce.

- Unusual envy and competition among siblings or children within the family, as well as their replies
- Inadequate parental control,
- The parents' or other family members' delinquent or criminal behaviour,
- Domestic strife,
- The family's financial struggles and poverty
- A boring, routine, and uninspiring home environment
- Deprivation of reasonable freedom and independence to children,
- Injustice and maltreatment of children
- Inadequate physical and emotional security.
- In these settings and environments, the youngster is deprived of the opportunity to meet his basic needs. He becomes a victim of emotional issues such as inferiority, insecurity, jealousy, or suppression, which cause maladjustment and, as a result, turn him into a hostile, rebellious, and antisocial personality. Thus, unfavorable home conditions are totally to blame for juvenile delinquency, and the fundamental cause of delinquent behavior must always be sought in the family background and home environment.

#### MALADJUSTMENT IN SCHOOL:

In many situations of delinquency, an unfavorable educational environment may be a strong motivator. It causes substantial maladjustment and, as a result, raises the likelihood of delinquent character formation. A defective curriculum, improper teaching methods, a lack of extracurricular activities, a lack of proper discipline and control, slackness in administration and organization, antisocial or undesirable behavior of teachers, maltreatment and injustice done to the child, and failure or backwardness are all examples of such an environment<sup>15</sup>.

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<sup>15</sup> See supra note 8

## **PREVENTION OF JUVENILE DELINQUENCY**

Preventive measures are essential for such children. We must first identify and then treat those young people. If they are not prevented from committing the offence in good time, they become a regular offender. There is little doubt that the most effective strategy to reduce youth crime is to support children and their families at an early stage. Many government programmes strive to intervene early, and federal funding for community projects has allowed independent organizations to tackle the problem for the first time. These important components share the most effective programmes. So many lawyers and criminologists have offered several measures to prevent youth delinquency. Certain provisions are highly important for the well-being and development of young people. Delinquency Prevention is the wide word of all efforts to prevent young people from engaging in criminal or any other bad behavior. The need of investing resources to reduce delinquency has been increasingly recognized by governments. Prevention programmes include education and treatment for substance misuse, familial counseling, youth mentorship, parenting, educational assistance, and youth shelter.

There are two types of programmes for avoiding adolescent delinquency:

1. Individual Programs- Individual programme focus on delinquency prevention through counseling, psychotherapy, and correct education.
2. Environmental programs- The environmental programme entails the use of tactics aimed at modifying the socioeconomic situation that is prone to foster delinquency.

### **I. Individual Programme<sup>16</sup>:**

#### **a- Clinical programme**

The aim is to support youth delinquents in understanding their personalities through the services of psychiatric social workers, clinical psychologists and psychiatrists. The function of the clinics has been listed as follows:

- Participation in pre-criminal discovery.
- To investigate chosen cases for research and treatment.
- To treat cases themselves or to recommend cases to other treatment agencies.
- To focus on other treatments of behavioral issues in children, based on the psychiatric requirements of the community.

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<sup>16</sup> See supra note 12



- To work together to prepare students to specialize in the treatment of behavioral disorders.

#### b- Educational programme

Educational institutions have a big impact in countries where practically every child attends school, and preventive programmes can be introduced effectively through schools. Teachers should not discriminate against pupils; they should be treated equally and supplied with moral education, which is extremely beneficial to kids in their future lives. Moral education is an important aspect in determining a student's life. They should be able to distinguish between right and bad ideas that are beneficial to them and those that are not.

#### c- Family Intervention

The nature of human growth can make a strong case for interventions with expectant parents. The brain development during the foetal stage has life-long repercussions and can have an impact on the behavior, health of the mother and environmental impacts on the mother through chemical agents, such as alcohol, Nicotine and narcotics.

The pregnancy is most likely to continue to include parents with a history of social adjustment issues. Several preventive programmes have targeted pregnant teenagers from this perspective. These exercises can frequently be regarded interventions with disruptive adolescents to prevent antisocial behavior from inter-generating. Regrettably, participants in such intervention studies were often not tracked long enough to document the program's impact on mother and child disruptive behavior. Each community needs to guarantee parental education options that assist make decent homes, enhance family connections and educate and care for children. Parents learn how to raise healthy children in several educational programmes.

#### d- Mental Health

In prevention and treatment of youth offenders, this strategy is also helpful. It is not possible to emphasize too much to prevent the mental conflict and to make a correct mental adjustment in childhood and the value of mental treatment to cure a mental disorder. The life mission must be determined, and the energies to carry out the high mission must be directed. High feelings and values in children also prevent youthful delinquency. In October 1944 Dr R. Masani, former Director of the Indian Institute 72 of Psychiatry and Mental Hygiene, at the opening of the Indian Mental Hygiene Council, said that the use of mental hygiene was

extensive and diverse and played an important role in the prevention of delinquency and criminality in education, law, medicines, public health and industry.

e- Getting rid of the inferiority complex

Complex inferiority, dread and apprehension may occasionally lead a youngster to be criminalized in a false and misunderstood manner. Children should be encouraged to become trustworthy and happy. In their lives, discouragement is drawing them back. They should tackle several good and terrible phases of life properly and not be blamed for their shortcomings. Appreciation, sympathy and love ought to be showered to eliminate the concept of inferiority.

## II. Environmental programme<sup>17</sup>

a- Community programme

The primary goal of the community programme is to reach out to those in need of assistance rather than having them approach employees and agencies. Another feature of this programme is that the engagement of the local community is regarded as more significant, with the role of professional leadership being limited to a minimum. The following are Marshal B. Clinard's key assumptions for these programmes:

- Local residents will take part in attempts to improve neighborhood circumstances, and they will not accept an unfavorable social and physical environment as natural and enviable.
- Because self-imposed modifications in the immediate environment will have genuine meaning for the resident and, as a result, will have a longer lasting effect.

b- Publicity

This strategy can also be used to help prevent juvenile delinquency. Newspapers, periodicals, radio, television, and motion pictures, among others, should offer factual reports about the different wrongs committed by juveniles and evaluate the genuine reasons of those wrongs, as well as protect minors from false and misleading reporting. The genuine position on their delinquent behavior should be presented and created in front of society so that they can be appropriately appraised.

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<sup>17</sup> Krystina Murray, *The Importance Of Teen Substance Abuse Prevention*, Addiction Center, (Aug. 31, 2021) <https://www.addictioncenter.com/teenage-drug-abuse/teenage-substance-abuse-prevention/>

c- Family Environment<sup>18</sup>

The quantity of parental supervision, the manner in which parents punish their children, parental conflict or separation, criminal parents or siblings and the quality of the parent-child bond are all family characteristics that may have an impact on offending. Many studies have revealed a substantial link between a lack of supervision and offending, and it appears to be the most influential family effect on offending.

**HOW JUVENILE JUSTICE SYSTEM IS DIFFERENT FROM CRIMINAL JUSTICE SYSTEM<sup>19</sup>?**

Because of the defendant's age(s), the juvenile justice system differs from the adult justice system. While the youngster (up to 17 years of age) is placed in the juvenile system by default, it can be tested as an adult in specific cases. This occurs when adolescents are older (about 15-17 years) and the criminality is extremely bad (for example, a murder).

The first change your child will notice after getting arrested is that he will be brought to a separate detention facility from the jail. In Collin County, for example, adults are brought to the Collin County Detention Center, while minors are transported to the Collin County Juvenile Detention Center. In contrast to adult jail, where inmates can choose to sit all day or participate in the inmate worker programme, those detained in the juvenile detention centre are required to participate in academic education and other programmes designed to provide structure and continued growth to detainees throughout their time there.

Another distinction between the two systems is that the adult system is less concerned with rehabilitation and more concerned with punishment and retribution. The juvenile justice system prides itself on its emphasis on rehabilitation. It is possible that your child does not require rehabilitation; he or she could be a fantastic kid who is being blamed for something he or she did not do, or even if they did do it, it could have been a stupid decision made by an otherwise great child. In any case, it is critical that you understand that the juvenile system is structured in such a way that you will hear the state, judges, guardians ad litem, and almost everyone else involved in the case speak about your child as if he or she requires it, even if you and your child's attorney understand that this is not the case. Because the emphasis in juvenile cases is

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<sup>18</sup> See supra note 8

<sup>19</sup> See supra note 12

less retributive and more rehabilitative, your lawyer has a variety of choices for assisting you in sealing the records. a juvenile may have his or her record sealed, which removes the incident from the juvenile's criminal history, if it has been two years since the case was discharged and the child has not gotten into any more serious trouble, i.e. no felonies, misdemeanors involving moral turpitude, or other actions requiring supervision. Finally, someone convicted in the adult system is said to be “found guilty,” whereas a kid is said to be “adjudicated to have engaged in delinquent conduct” in the juvenile system.

Some of these differences are minute, but they should help you better understand the general approach in juvenile criminal justice as opposed to the adult system.

## **CASE LAWS**

### **ARNIT DAS PETITIONER V. STATE OF BIHAR<sup>20</sup>**

1. The trial court found that petitioner Arnit Das was not a juvenile on the date of occurrence in an investigation conducted under Section 32 of the Juvenile Justice Act, 1986 (hereinafter referred to as "the 1986 Act").the sessions court upheld the decision of trial court and The revision petition filed by the petitioner was dismissed by the High Court. Order of the High Court was put in issue by the petitioner in SLP (Crl.) No. 729 of 2000.

In an appeal (Criminal Appeal No. 469 of 2000) arising out of that special leave petition (since reported as Arnit Das v. State Of Bihar. 2000 5 SCC 488), dealing with that issue, it was observed: “In terms of the appellant's age, the determination is based on a careful examination of the evidence and is reached after taking into account all of the information on record as well as the valid reasons given for it. The finding arrived at by the learned ACJM has been maintained by the Sessions Court in appeal and the High Court in revision. We find no case having been made out for interfering therewith.”

2. As a result, this Court affirmed the concurrent findings regarding the petitioner's age and that, on the day of the offence, the petitioner was not a juvenile under the 1986 Act's provisions.

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<sup>20</sup> Arnit Das Petitioner V. State Of Bihar, Review Petition Crl. No. 1290 Of 2000 In Criminal Appeal No. 469 Of 2000 Decided On August 28, 2001

3. After the judgment was delivered by this Court on 9-5-2000, the petitioner filed a review petition seeking review of that judgment. The only issue raised in the memorandum of review petition is that the two-judge bench that decided *Arnit Das v. State Of Bihar*, while holding that the significant date to determine whether an accused is a juvenile or not under this act is the date on which the accused appears in the court in enquiry proceedings for the first time, has overlooked the earlier view in *Umesh Chandra v. State of Rajasthan*<sup>21</sup> wherein it was held that the crucial date in these type of cases is the date on which the offence was committed and not when the accused appears before the court in enquiry proceedings for the first time. In the memorandum of the review petition, the accuracy of the finding that the petitioner was not a juvenile (under the 1986 Act) on the date of the offence has not been challenged.

4. When the review petition was heard on 19-1-2000, the Division Bench noted that there appeared to be a difference of opinion on whether the date of the offence or the date on which the accused first appears in enquiry proceedings is relevant for determining whether or not an accused was a juvenile under the 1986 Act. The review petition was, therefore, referred to a larger Bench to resolve the conflict between the two opinions

5. Given the findings of an inquiry conducted under Section 32 of the 1986 Act that the accused-petitioner was not a juvenile for the purposes of the 1986 Act on the date of the offence, which finding has been upheld all the way to this Court, it is of no consequence, insofar as this petition is concerned, whether the crucial date for the purposes of the 1986 Act is the date of commission. The reference is only of an academic interest and the court declined to answer an academic question only.

6. It is settled practice that this Court does not decide matters which are only of academic interest on the facts of a particular case<sup>22</sup>.

7. Thus, the court found out that the issue referred to the Constitution Bench does not require their consideration in this case. The review petition is accordingly dismissed, which itself has been referred to the Constitution Bench.

8. We, however, clarify that since learned Senior Counsel appearing for the petitioner had reserved his argument on the applicability of the Juvenile Justice (Care and Protection of

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<sup>21</sup> *Umesh Chandra v. State of Rajasthan*, 1982 2 SCC 202

<sup>22</sup> See with advantage: *Sanjeev Coke Mfg. Co. v. Bharat Coking Coal Ltd.* 1983 1 SCC 147, *R.S Nayak v. A.R Antulay*. 1984 2 SCC 183 and *Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi* 1987 Supp SCC 93.

Children) Act, 2000, which repealed the 1986 Act, for raising it in the trial court when the order of reference was made, we are not expressing any opinion on the question whether the Juvenile Justice (Care and Protection of Children) Act, 2000 applies to the facts and circumstances of the instant case or not.

9. The review petition was thus dismissed<sup>23</sup>.

## **RECOMMENDATIONS**

A number of programmes have been successfully conducted with youngsters, pre-school children and primary school children to lower crime risk factors. It is often expected that eliminating identified crime-related risk factors will result in reduced crime. However, few studies have sufficient follow-up periods to evaluate whether criminal crime really is reduced. While eliminating various risk factors can be a positive outcome, it is crucial to establish what long-term impacts on crime and crime are preventive actions. Organizing follow-up studies of participants in programmes that have been found to be beneficial in reducing risk variables for delinquency is also a low-cost research technique.

- Federal youth development agencies, notably the Office of Juvenile Justice, the National Institute for Justice, the National Institute for mental health, and the National Institute of Children's Health and Human Development, should encourage and fund long-term results studies of well-designed short-term interventions.
- The consequences of educational policies and practices, such as grade retention, tracking, suspension, and deportation, must be thoroughly examined. This assessment should cover the impacts of such measures on crime and on the atmosphere and the environment of education and schools.
- Federal, state, and local governments should take action to provide treatment for pregnant women, particularly teenagers, who abuse drugs (including alcohol and cigarette use).
- For safety and effectiveness, all publically financed interventions should be assessed through science-based techniques. The public backing of intervention initiatives should

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<sup>23</sup> Case mine, (last visited Sept. 13,2021) <https://www.casemine.com/judgement/in/5609ada0e4b0149711411ea6>

include adequate money for such evaluations. Funding should be terminated for initiatives that have shown limited efficiency<sup>24</sup>.

One or two antisocial youths may lower their antisocial behavior in a largely pro-social group, and enhance their pro-social behavior without affecting their pro-social youth. Certain well-designed assessments of risk-based interventions for youth, however, showed that the unwanted result of increased antisocial conduct of such youth in groups was even under strict adult surveillance.

- Federal and national money should be used to develop misbehavioural remedies for young people who do not aggressive youth or anti-social youth.
- Research on delinquency risk factors needs to focus on interaction effects between different risk variables. Research should be developed in particular on the effects of neighborhood characteristics and their connections with individual and family circumstances<sup>25</sup>.

## **CONCLUSION**

Our analysis of intervention approaches has produced very few successful programmes with trustworthy assessments. Clear advantages in reducing delinquency have been demonstrated in the work done with pregnant women, with pre-school children and their mothers and instructors, and with their parents in high-risk areas using scientifically adequate assessments. However, various widespread intervention tactics have been identified to enhance crime. Many of these initiatives attract young teenagers together. The panel decided that new ways should be promoted to provide interventions to prevent the risk of grouping misbehaved youth. The panel decided that a range of problems were addressed by the most efficient crime prevention programmes. Therefore successful pre-school programmes, rather than tackling crime alone, helped young mothers to teach their children, improved their health and education in

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<sup>24</sup> See supra note 12

<sup>25</sup> Juvenile Delinquency in India, Forumias, (Oct. 26,2018) <https://blog.forumias.com/juvenile-delinquency-in-india/>

classrooms. Effective crime prevention measures appear to be programming facilitating healthy births, childhood, and childhood<sup>26</sup>.

Multitudinous programming (e.g. school or community) which includes multi-components for parents, young people, and the environment, is more beneficial than a narrowly focused programme. Appropriate and scientifically credible assessment of the initiatives set up to address that concern should be used to raise public concern about juvenile criminality.

In the last twenty years, the rehabilitation model contained in the Youth Justice and Crime Prevention Act of 1974, which focused on juvenile offenders' needs, has lost more momentum to punitive methods which largely focused on crime. Government policy on youth crime should often battle with a balanced approach to the good development of children and youths who violate the law and the desire of the public to punish criminals.

This contrast between reconstruction and punishment for children and teenagers committing crimes gives juvenile offenders an ambivalent approach. Criminal activities must be abolished, punished, and condemned. In an increasing process of government policy for all young people, including young offenders, children and young adolescents involved in criminal behaviors must be educated and supported.

Adolescence is a time when teens form social networks, date, drive, and extend their horizons—all decisions that can have a positive or negative impact on youth and the community. Public policy on education, medical treatment, the control of alcoholic drinks, and youth crime reflects thinking that teenagers have not gained the skills or skills needed for adult status.

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<sup>26</sup> See supra note 5