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# A Case Study of 'Juvenile in Conflict with Law' from Some Juvenile Homes

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## ABSTRACT

*Crime and delinquency are not mere legal or moral problems, they are the manifestations of domestic neglect and social apathy. Modern psychological studies have provided new insights into the cause of aberrant behaviour and involved new ways of treating mental illness. The present research paper is based on empirical work. In this study the behaviour of delinquent juvenile is observed and studied by observational techniques, the interview and case-study method. The main object of this research paper is not only to explain the nature and concept of 'Juvenile in Conflict with Law' in theoretical aspect but also in practical aspect. As children are the future of any Country therefore, society expects them to grow as responsible citizens. The future well-being of the Nation depends upon the fact how the children grow and develop. The children require the protective umbrella of the society for better growth and development. Therefore, it the paramount obligation of the State to attend to the children to make them appropriate citizens of tomorrow. It is hoped that this research paper will be welcomed by all those for whom it is meant.*

## I. INTRODUCTION

Patrick “*The child, by reason of his physical and mental immunity, needs special safeguards and care, including appropriate legal protection before as well as after birth.*”<sup>2</sup>

**- United Nations Declaration on the Rights of the Child, 1959**

Children are the most privileged class of human beings. But they are the most vulnerable sections of society. They are exploited in various ways. Despite the Constitution's vision of a healthy and happy child – protected against abuse and exploitation, and a National Policy for Children – the majority of children in India continue to live without a childhood.<sup>3</sup> The children require the protective umbrella of the society for better growth and development. Therefore, it

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<sup>2</sup> The General Assembly, on 20 November, 1959 adopted *the Declaration of the Rights of the Child*.

<sup>3</sup> Ved Kumari, *The Juvenile Justice System in India- From Welfare to Rights* (Oxford University Press, 2004), at p.1

the paramount obligation of the State to attend to the children to make them appropriate citizens of tomorrow.

‘Juvenile Delinquency’ is the term for offences, crimes and other infringements of law perpetrated by children and young person below the age of adulthood i.e. 18 years of age. In all countries the amount of such law-breaking is large and includes a material proportion of serious crime as well as truancy, petty theft, and malicious mischief. It has sharply increased in modern times.

‘Juvenile Delinquency’ is criminal and analogously deviant behaviour committed by children and adolescents under the legal age of adulthood.<sup>4</sup> Juvenile delinquency is evidence of the society failing to ensure protective environment for its children. The child’s personality is developed throughout his or her development and depends on the stage of development; the child becomes capable of taking responsibility for its needs, acts, health and safety. Therefore, the society has the duty to ensure and provide special protection to children.

The rights of the child are defined in the 1989 UN Convention on the Rights of the Child as the first international agreement dealing with comprehensive protection of children’s rights. The Convention is an instruction on how children are to be treated and protected while a special international body of the United Nations (UN), the Committee for the Rights of the Child, oversees the implementation of the Convention in the countries that have ratified it. The UN Convention on the Rights of the Child is an integral part of the internal legal system of this Country and has supremacy over its national legislation, together with other ratified international instruments.

The Convention on the Rights of the Child offers a completely new attitude towards children with an aim to further the status of children in the world. The child is viewed as a human being with its own needs and opinion having an active role in all the activities and a juvenile offender differs from an adult offender.

Therefore, *juveniles in conflict with the law* are to be treated differently from adult delinquents. The court must take into account the personality and needs of the juvenile, and social reaction toward juveniles should be directed to education and assistance measures to assist in their development, remove causes of anti-social and criminal behaviour and prevent re-offending. All procedures involving juvenile offenders must observe the principle of proportionality take into account not just the crime and risk for the society but also personality of the juvenile, home

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<sup>4</sup> Mc Shane Marilyn D, *Encyclopaedia of Juvenile Justice*.

environment, age, education and affinities issues relevant for its wellbeing.

A modern State cannot look idle to this phenomenon by simply pursuing a policy of least interference in family matters. Its task is something more than that mere provision of a projection of fair legal order. But that is where state has to begin with.<sup>5</sup>

## II. JUVENILE JUSTICE SYSTEM (JJS)

*“In the little world in which children have their existence, whosoever brings them up, there is nothing so finely perceived and so finely felt as injustice.”*

*- Charles Dickens.*

The *Juvenile Justice System* is not designed to respond to the needs of young offenders only. One principle role of the *Juvenile Justice System* has been to provide specialized and preventive treatment services for children and young person as means of ‘secondary prevention’, rehabilitation, and improved specialization.<sup>6</sup>

It may be remembered that the *Juvenile Justice System* is one of the several measures taken by the state to attain the vision of the Constitution of India relating to the care and welfare of children. The Constitution of India recognizes the special status of children through Articles 15(3), 24, 39(e) and 39(f), and 45. *Indian National Policy for Children*, adopted in 1974, also declares – “Children are supremely important national assets.”

The term Juvenile Justice, is therefore, used to refer to social as well as juridical justice. India seeks to provide social and juridical justice to neglected and delinquent children through the use of code, constables, court, and residential institutions for both categories of children, those committing an offence and others living in circumstances likely to lead them into a life of crime. The legislation incorporating the Juvenile Justice System have been making provisions for the care, protection, treatment, development, and rehabilitation of neglected or delinquent juveniles, and for the adjudication of certain matters relating to and disposition of delinquent juveniles. Their provisions govern the relationship between children and the police, adjudicatory bodies, correctional homes, probation services, community participation and after care programs.<sup>7</sup>

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<sup>5</sup> Dr. Nirmal Kanti Chakraborty, Prof. Dr. Manabendra Kumar Nag, Dr. S.S. Chatterjee (eds.) , *Law and Child*, (R. Cambay & Co. Private Ltd. 2004).

<sup>6</sup> ‘Juvenile Justice: Before and After the Onset of Delinquency’, working paper prepared by the Secretariat, Sixth UN Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, Venezuela, p. 6.

<sup>7</sup> Ved Kumari, *the Juvenile Justice System in India from Welfare to Rights*, (Oxford University Press, 2004), at p. 4.

### (A) Historical Background

The movement for special treatment of juvenile offenders started towards the end of eighteenth century. Prior to this, juvenile offenders were dealt with exactly those of adults.<sup>8</sup> Till the mid of nineteenth century the issues related to children being ignored but thereafter most of the States started recognizing the complex social problems and taking effective steps by enacting proper legislation for juvenile delinquents.

The period of industrialization did not bring any remarkable change in the attitude of reformists towards the young offenders. Juveniles were nothing more than a pawn in the game of trade. They were even sold as slaves for menial work. However, the wave of liberalism and legislative reforms during the mid-eighteenth century brought in its wake a radical change in the attitude of law reformists towards young offenders. They drew the attention of penologists towards the fact that what a child requires is not so much of reformation as formations.<sup>9</sup>

Prior to independence, the British rules enacted the law for the trial of people who were below the age of fifteen years and had committed any offence. The *first legislation* concerning children came in **1850** when the ***Apprentices Act*** was passed. The Act in fact was not primarily concerned with the delinquent behaviour of children but laid down the provisions relating to the relationship between employers and young person learning a trade from them as apprentices.

Thereafter, the British Government enacted the ***Reformatory Schools Act, 1897*** which is a *landmark in juvenile legislation in India*, the considerations which lead to separate correctional institutions for young offenders in the United States of America. and England had their impact in India as well. The Act provided that young offenders up to fifteen years of age found guilty of offences punishable with imprisonment or transportation were not to be sent to ordinary prisons but to reformatory schools. The Act even today acts as the basic law in those areas where no Children's Act or any other special laws dealing with juvenile offenders have been enacted.

But the experience revealed that these reformatory schools could not provide adequate facilities required for all round development of a child. Therefore, provisions were included in the ***Code of Criminal Procedure, 1898*** to place youth upon the age of eighteen years in a reformatory school.

Thereafter, in accordance with the *Indian Jail Committee Recommendation (1919-1920)* the

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<sup>8</sup> N. V. Paranjape, *Criminology and Penology*, 11<sup>th</sup> Edition (Allahabad, Central Law Publication, 2003) at p. 528.

<sup>9</sup> Fitzgerald, P. J., *Criminal Law and Punishment*, (1962) at p. 260.

*first Children's Act* was passed by Madras in 1920 followed by Bengal and Bombay in 1922 and 1924 respectively. This is how the concept of *Juvenile Justice* has been developed.

After independence, the most significant legislation in the area of juvenile delinquency was the Central enactment for Delhi and other Union Territories of the year 1960. The *Children Act, 1960* was supposed to deal with the destitute and delinquent children separately through specialized institutions. Some lacunas were identified in the Act of 1960 and amendment was, therefore, desirable. The amendment was done by the *Children (Amendment) Act, 1978* to make it more effective. Following this legislation, all the states enacted their own Children Acts. As a result, it was felt that there was a lack of uniformity in the provisions of the Acts in different States.

Over the years the need was felt for a uniform legislation regarding *juvenile justice* for the whole country. Therefore, the *Juvenile Justice Act, 1986* was passed by the Parliament in order to fulfill the changing needs of the society. Besides bringing uniformity at the national level, it also takes care of the states where no legislation was forthcoming in the area of juvenile justice.

#### **(B) The Juvenile Justice Act, 1986 replaced by The Juvenile Justice (Care And Protection Of Children) Act, 2000**

*The Juvenile Justice Act, 1986* was enacted by the Parliament in response to a long-standing demand for rationalizing the system of dealing with socially deviant children in keeping with the spirit of *social justice* and humanitarian law. The Long Title of the Juvenile Justice Act, 1986 contains: "An Act to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles."<sup>10</sup>

The Juvenile Justice Act, 1986 remained operative for nearly 13 years and then was replaced by the Juvenile Justice (Care and Protection of Children) Act, 2000, which is now the central law operative throughout the whole of India except the State of Jammu and Kashmir.

The difference between the old Act and new Act is that in the old Act of 1986 for treating the offender is a Juvenile was up to 16 years only, whereas the age has been raised to 18 years in the new Act of 2000.<sup>11</sup>

#### **(C) Object of the Act of 2000**

The object of this Act appears to be to provide a frame work for advocacy on behalf of children

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<sup>10</sup> The Juvenile Justice Act, 1986 (Act No. 53 of 1986), received the assent of the President on 1-12-1986; published in the *Gazette of India, Extra Part II, Section 1, Sl. No. 64, dated 3-12-1986.*

<sup>11</sup> Vijay Singh v. State of U. P., 2003 (4) AIC 343 at 344 (All)

and for enhancing awareness of the special ends of justice on the part of the decision makers. The justice system as available for adults was considered not suitable for being applied to juveniles and greater attention was certainly required to be given to children who may be found in situations of social maladjustment delinquency or neglect. The Act, therefore, provides for care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles.<sup>12</sup>

The primary intention of this legislation is that juvenile offenders should be treated differently from adult offenders. The *Juvenile Justice (Care and Protection of Children) Act, 2000* was amended in the year 2006<sup>13</sup> and rules were framed under the Act in the year 2007 known as *Juvenile Justice (Care and Protection) Rules, 2007*. The amendment was brought to revise the Act in order to strengthen the Act.

**(D) The Juvenile Justice (Care And Protection Of Children) Act, 2000 Now Replaced  
By The Juvenile Justice (Care And Protection Of Children) Act, 2015<sup>14</sup>**

The object of the Juvenile Justice (Care and Protection of Children) Act, 2015 is to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care and protection, development, treatment, social re-integration, adoption of child-friendly approach, rehabilitation and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, hereinafter and for matters connected therewith or incidental thereto.

A delinquent juvenile arrested in any offence punishable in any law for the time being in force, has to be released on bail unless there appear reasonable grounds for believing that –

- The release is likely to bring him into association with any known criminal or
- Expose him to moral danger or
- That his release would defeat the ends of justice.

The provisions of the Constitution of India confer powers and impose duties under Articles 15(3), 39(e) and 39(f), 45 and 47, to the State to ensure that all the needs of children are met and that their basic human rights are fully protected.; and whereas the Government of India has acceded on December 11, 1992 to the Convention of the Rights of the Child, adopted by the UN General Assembly, which has prescribed a set of standards to be adhered to by all the State

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<sup>12</sup> Karamdeep Singh v. State of Punjab, 1996 (1) JIC 1060 (P&H)

<sup>13</sup> Act No. 33 of 2006

<sup>14</sup> Act No. 2 of 2016 (The Act came into force from January 15, 2016).

Parties in securing the best interest of the child; and whereas, it is expedient to re-enact the Juvenile Justice (Care and Protection of Children) Act, 2000 to make comprehensive provisions for children alleged and found to be in conflict with law and children in need of care and protection, taking into consideration the standards prescribed in the Convention of the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985<sup>15</sup>; the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990; the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption, 1993 and other related international instruments.

In this socio-legal research paper an honest attempt has been made in order to give a clear idea about what the term juvenile means, how they become delinquent, its nature and scope, causes etc. The main focus has been made on '*juvenile in conflict with law*' and the place where the delinquent juveniles have been kept – is it really a Home or Rehabilitation Centre? All these problems have been discussed in the next chapters respectively.

### III. JUVENILE DELINQUENCY

*“A nation’s children are its supremely important asset and nation’s future lies in their proper development. An investment in children is indeed an investment in future. A healthy and educated child of today is the active and intelligent citizen of tomorrow.”*

*– Rabindra Nath Tagore*

Children have, from time immemorial, indulged in deviant behaviour or anti-social behaviour. Juvenile delinquency or deviant behaviour of children has been regarded in every age as a problem peculiar to contemporary society. The term '*Juvenile Delinquency*' was perhaps, for the first time used by an American Committee in the city of New York in the early part of the nineteenth century to investigate into the causes of the pauperism and vagrancy.<sup>16</sup>

Juvenile delinquency exhibits a specific pattern of behaviour. It “involves wrong doing by a child or by a young person who is under an age specified by the law of the place.”<sup>17</sup> Juvenile delinquency has been viewed with much concern through all ages. It is part of social life and as such, can neither be treated lightly nor can it be neglected. It is a significant problem, which if allowed developing unchecked would sap the very vitality of a nation later.

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<sup>15</sup> Known as the Beijing Rule.

<sup>16</sup> Robert W. Drowns, *Juvenile Justice* (West publishing Company, New York. 1990).

<sup>17</sup> Sethna, M. J., '*Society and Criminal*', p. 329.

### **(A) Meaning of ‘juvenile’**

The term ‘*juvenile*’ is derived from a Latin word ‘*juvenis*’, meaning young. The term juvenile is defined by each Member State of the United Nations in a manner which is compatible with its legal system and social welfare objectives. Juvenile or child means a person who has not completed the age of eighteen years.

According to *Black’s Law Dictionary*,<sup>18</sup> ‘*Juvenile*’ means a person who has not reached the age (usually 18), at which one should be treated as an adult by the criminal justice system.

A juvenile is an adolescent person between childhood and manhood, as the case may be, who indulges in some kind of anti-social behaviour, which if not checked, may turn into a potential offender.

The *Juvenile Justice Act, 1986* defines – ‘*Juvenile*’ means a boy who has not attained the age of 16 years or a girl who has not attained the age of 18 years.

Section 2 (k) of the *Juvenile Justice (Care and Protection of Children) Act, 2000* defines ‘*juvenile*’ as follows: “*Juvenile*” or “*child*” means a person who has not completed eighteen years of age.

Section 2 (35) of the *Juvenile Justice (Care and Protection of Children) Act, 2015* provides that ‘*juvenile*’ means a child below the age of eighteen years.

The General Assembly of the United Nations adopted the Convention on *Rights of the Child* on 20<sup>th</sup> November, 1989 which prescribed a set of standards to be adhered to by all the State parties in securing the best interest of the child. The Convention also emphasized on social reintegration of child victims, to the extent possible, without resorting to judicial proceedings. The Government of India ratified the Convention on 11<sup>th</sup> December, 1992 and therefore, it became expedient to re-enact the *Juvenile Justice Act, 1986* to meet the requirements of the standard prescribed by the Convention on the Right of the Child and all other international instruments. It is in this backdrop that the *Juvenile Justice (Care and Protection of Children) Act, 2000* was re-enacted in the year 2015 repealing the *Juvenile Justice Act, 1986*.

#### **• Meaning of ‘Delinquency’**

Etymologically, the term ‘*delinquency*’ has been derived from the Latin word ‘*delinquer*’, which means ‘*to omit*’. The Romans used the term to refer to the failure of a person to perform the assigned task or duty. It was William Coxson who in 1484, used the term ‘*delinquent*’ to describe a person found guilty of customary offence. The word also found place in

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<sup>18</sup> Black’s Law Dictionary, Seventh Edition, p.871.

Shakespearean famous play '*Macbeth*' in 1605. In simpler words it may be said that delinquency is a form of behaviour or rather misbehavior or deviation from the generally accepted norms of conduct in the society.

Delinquency has something to do with misbehavior, but not all misbehavior is delinquent, even when it might be considered inappropriate behaviour for the age of the individual. Both the quality of the behaviour and the degree of social deviation are factors in judging an act delinquent or rather trivial, on one hand, or delinquent or psycho-pathological, on the other hand.

- **Meaning of 'Juvenile Delinquency'**

'*Juvenile delinquency*' conveys different ideas to different people. However, the penologists have interpreted the word '*juvenile delinquency*' differently. Generally speaking, the term refers to a large variety of disapproved behaviors of children and adolescents which the society does not approve of, and for which some kind of admonishment, punishment or corrective measures is justified in the public interest.

The term has a very extensive meaning includes rebellious and hostile behaviour of children and their attitude of indifferent towards society. Thus, juvenile delinquency is a blanket term which describes a plethora of juveniles in trouble or on the verge of trouble.

It is not possible to give a precious definition of juvenile delinquency. Several factors are responsible for not allowing a clear-cut formulation. One hurdle is similar to that encountered while defining crime in general, i.e., the choice between the social and legal definitions. Sociologists insist that legal definitions are of no help in understanding the true nature of delinquency and in knowing who are juvenile offenders since the arrest or conviction of a child may depend upon various fortuitous circumstances. They also maintain that legal definitions differ from place to place and time to time and hence are not suitable for scientific studies.

According to *Black's Law Dictionary*,<sup>19</sup> '*Juvenile delinquency*' means anti-social behaviour by a minor; especially, behaviour that would be criminally punishable if the actor were an adult, but instead is usually punished by special laws pertaining only to minors. Such juvenile delinquents who are minor and guilty of criminal behaviour are punished by special laws pertaining to adult. They are also termed as juvenile offender; youthful offender; delinquent minor.

*Juvenile delinquency* is after all, a legal term which denotes acts of varying degrees of social

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<sup>19</sup> Ibid.

consequences from mere naughtiness to major assault punishable by law. Most of these offences said to be criminal actions when committed by a person beyond the age handled by juvenile courts. “A child is said to be regarded technically as a delinquent when his anti-social tendencies appear so grave that he become or ought to become the subject of official action.”<sup>20</sup>

In the *narrower sense*, juvenile delinquency means “any action by someone designated as a juvenile that would make such juvenile subject to an action by the Juvenile Court.”

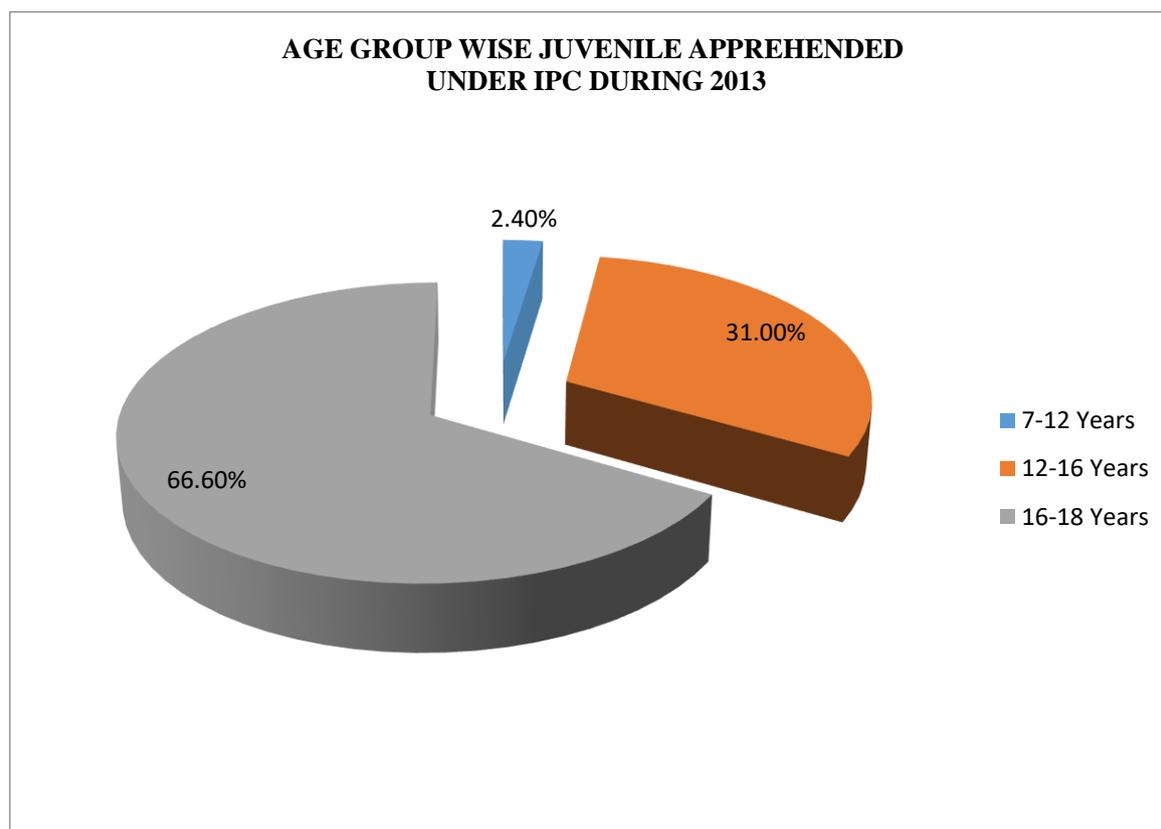
In a *broad generic sense*, juvenile delinquency refers to “a variety of anti-social behaviour of a child and is defined somewhat differently by different societies, though a common converging tendency may be noted in those forms, namely, socially unacceptable tendency of the child at any given time.”

### **(B) Juveniles Apprehended**

The details on gender wise juveniles apprehended under IPC and SLL crimes are presented in **Figure 1. Crime in India, 2013** shows that a total of 43,506 juveniles were apprehended during 2013 out of which 41,639 were boys and 1,867 were girls. The percentage of girls to total juveniles was 4.3% i.e. 0.9 percentage point less than such share in 2012 (5.2%). 1,330 juveniles were apprehended in the age-group of 7-12 years, 13,346 juveniles were apprehended in the age-group of 12-16 years during 2013 whereas bulk of juveniles apprehended (28,830) were under the age-group of 16-18 years. The percentage shares of Juveniles apprehended under these age groups were 3.1%, 30.7% and 66.3% respectively. The overall increase in juveniles apprehended at the national level was 9.3% during 2013 as compared to 2012. Out of total 43,506 juveniles apprehended during 2013, 38,765 juveniles (89.1%) were apprehended under IPC crimes while 4,741 juveniles (10.9%) were apprehended for committing SLL crimes. The highest number of juveniles were apprehended for theft (7,969) followed by hurt (6,043) and burglary (3,784). These heads taken together accounted for 40.9% of total juveniles apprehended under IPC crimes. Out of total 4,741 juveniles apprehended under SLL crimes in the country during 2013, the highest number of juveniles were apprehended under the 'The Gambling Act' (756) followed by 'The Prohibition Act' (375) and 'The Excise Act' (328). These three crime heads under SLL taken together accounted for 30.8% of total juveniles apprehended under SLL.

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<sup>20</sup> Cyril Burt, *The Young Delinquent*, p. 15.

**FIGURE 1**

*Source: National Crimes Records Bureau, Ministry of Home Affairs, Government of India, New Delhi Crime in India – 2013*

#### **IV. CAUSES OF JUVENILE DELINQUENCY**

Juvenile delinquency has become a global phenomenon these days. Despite intensive rehabilitative measures and special procedure for tackling the problem of juvenile delinquency, there is a growing tendency among youngsters to be arrogant, violent and disobedient to law with the result there has been considerable rise in the incidence of juvenile delinquency. The main causes for this unprecedented increase of juvenile delinquency are as follows:

##### **(A) Urbanization**

The industrial development and economic growth in India has resulted into urbanization which in turn has given rise to new problems such as housing, slum dwelling, overcrowding, lack of parental control and family disintegration and so on. The high cost of living in urban areas makes it necessary even for woman to take up outdoor jobs for supporting their family financially, with the result their children are left neglected at home without any parental control.

***(B) Temptation for modern luxuries of life***

Moreover, temptation for modern luxuries of life lures young people to resort to wrongful means to satisfy their wants. All these factors cumulatively lead to an enormous increase in juvenile delinquency in urban areas. It has rightly been commented that today “*there is no crime but there are only criminals in the modern sense of penology.*” It is, therefore, desired that the society be protected from offenders by eliminating situations which are conducive of delinquency.

***(C) Nuclear family system***

Disintegration of family system and laxity in parental control over children is yet other cause of increase in juvenile delinquency. The natural consequences of broken homes are lack of parental control, absence of security and want of love and affection towards children, which are contributing factors for juvenile delinquency.

***(D) Changing pattern in modern living***

Rapid change in modern living also makes it difficult for children and adolescents to adjust them to new ways of life. They are confronted with the problem of culture conflict and are unable to differentiate between right and wrong. This may drive them to commit crime.

***(E) Unprecedented increase in divorce cases***

Matrimonial disputes and unprecedented increase in divorce cases is yet another cause for disrupting family solidarity. Once a child feels neglected, he is bound to go astray and this furnishes a soothing ground for juvenile delinquency. The children, therefore, need affection, protection and guidance at home and have to be handled very carefully. Greater emphasis should be on preventing them from indulging into criminality rather than curing them after they have committed the offence. The parents and other elderly members of the family must provide adequate opportunities for their youngsters to develop their personality. This is possible through proper education and training and child care.

***(F) Poverty***

It is yet another potential cause of juvenile delinquency. Failure of parents to provide necessities of life such as food and clothing etc. draws their children to delinquency in a quest for earning money by whatever means. At times, even the parents connive at this for the sake of petty monetary gains.

***(G) Illiteracy***

Illiteracy is another important cause for juvenile delinquency. Animals can be trained; only

human beings can be educated. Education requires personal participation and transformation. It cannot be given to anyone; it must be inwardly appropriated. It involves cultivation of mind, not merely with a view of offering it as a commodity for sale in the market.

***(H) Child Labor***

Child labor is another cause for juvenile delinquency. Poverty is the root cause of child labor. Children are made to work to fill their stomach and family also. Lack of education is also the main cause for child labor. They will be indulging in delinquent activities including the crime against women.

***(I) Child Abuse***

Child abuse is another cause for juvenile delinquency. Children from poor background are the key target groups.

***(J) Migration of deserted and destitute boys***

Migration of deserted and destitute boys to slums brings them in contact with anti-social elements carrying on prostitution, smuggling of liquor or narcotic drugs and bootleggers. Thus, they lend into the world of delinquency without knowing what they are doing is prohibited by law.

***(K) Cultural conflict***

The rapidly changing patterns of modern living make it sufficient for children to differentiate between right and wrong. So, this may be one of the causes of juvenile delinquency.

***(L) Ill-effect of mass media***

Media, television, computer, mobile, cinema etc. has a great influence in the life of every people. Mass media influences are responsible for juvenile delinquency.

***(M) Increase of crime rate***

Increasing rate of crime in society has opened the opportunity to the juvenile to get associated with adult criminals.

Our study reveals that in the year of 2003, the total number of juveniles apprehended for various crimes under IPC and Special and Local Laws, was 33,320; where 30,985 were boys and 2,335 were girls but this rate of crime of juveniles under IPC and Special and Local Laws has been increased in 2013 from 33,320 to 43,506. Among them 41,639 are boys and 1,867 are girls. It must be stated that the nature of delinquency among male juveniles differs radically from those of girls.

The concept of *juvenile delinquency* in India is confined to the violation of ordinary law of the country so far as the Juvenile Court is concerned. The present law which governs the juveniles in conflict with law and children who are in need of care and protection is called *Juvenile Justice (Care and Protection of Children) Act, 2000*. This law has replaced the earlier law governing juveniles and which was known as *Juvenile Justice Act, 1986* which was in conformity with the *UN Standard Minimum Rules for the Administration of Juvenile Justice* (also known as *Beijing Rules, 1985*).

The Supreme Court condemned and discourages the detention of children below 16 in jail, in a milestone decision<sup>21</sup>. The Court observed: “It is a matter of regret that despite statutory provisions and frequent exhortations by social scientists, there are still a large number of children in different jails in the country.....it is the atmosphere of the jail which has a highly injurious effect on the mind of the child estranging him from society and breeding on hatred against a system which kept him in jail. On no account should the children be kept in jail and if a State Government has not get sufficient accommodation in its remand homes, the children should be released on bail instead of being subjected to incarceration in jail.”

## V. JUVENILE IN CONFLICT WITH LAW

*“There is no trust more secured than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare protected, that their lives are free from fear and want and that they grow up in peace.”*

*– Kofi Atta Annan.<sup>22</sup>*

A child is like wet clay; one can mould them in any shape or in any forms. It is clay in a potter’s hand. So much cherished and solemnly declared ‘*national assets*’<sup>23</sup>, who can only deserve love, affection, care, proper nutrition and education, are helpless guys living with uncertain future in a state of sad plight. The Indian concept of ‘*juvenile delinquency*’ is much narrower than the British or the American concepts, which are wider in scope and include a plethora of behaviour in addition to violations of penal statutes.

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<sup>21</sup> *Supra*, see foot note 20.

<sup>22</sup> Kofi Atta Annan, the 7th Secretary-General of the United Nations and is the founder and chair of the Kofi Annan Foundation. In 2001, he and the United Nations were jointly awarded the Nobel Prize for Peace.

<sup>23</sup> Sheela Barse v. Union of India, AIR 1986 SC 1873

The General Assembly of the United Nations has adopted *the Convention on the Rights of the Child* on the 20<sup>th</sup> November 1989. The Convention on the Rights of the Child has prescribed a set of standards to be adhered to by all State Parties in securing the best interests of the child.

#### **(A) Constitutional Framework**

The Indian Constitution has, in several provisions, including Clause (3) of Article 15, Clauses (e) and (f) of Article 39, Article 45 and 47, imposed on the State a primary responsibility of ensuring that all the needs of children are met and that their basic human rights are fully protected. Since the Government of India has ratified the Convention on the 11<sup>th</sup> December, 1992, therefore, it has been thought expedient to re-enact the existing law relating to juveniles bearing in mind the standards prescribed in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1955 (*The Beijing Rules*), the United Nations Rules for the protection of Juveniles Deprived of their Liberty (1990) and all other relevant international instruments.

Therefore, the Parliament enacted the *Juvenile Justice (Care and Protection of Children) Act, 2015* with a view to consolidate and amend the law relating to *juveniles in conflict with law* and *children in need of care and protection*, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment.<sup>24</sup>

#### **(B) Definition**

According to *Juvenile Justice (Care and Protection of Children) Act, 2015*; there are two kinds of children –

1. Children in need of care and protection [ Section 2 (13)]<sup>25</sup>;
2. Juvenile in conflict with law [Section 2 (14)]<sup>26</sup>.

*Children in need of care and protection* means a child who has not yet committed any offence, but they are being reared up in an atmosphere or environment which is not congenial for his all-round development, he needs proper care and treatment.

*Child in conflict with law* means a child below 18 years of age, who has committed an offence. According to Section 2 (13) of the *Juvenile Justice (Care and Protection of Children) Act, 2015*

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<sup>24</sup> S. N. Mishra, *The Code of Criminal Procedure, 1973 with Probation of Offenders Act & Juvenile Justice (Care and protection of Children) Act*, 7<sup>th</sup> Edition, (Central Law Publication, Reprint 2011) at p. 803.

<sup>25</sup> Previously Section 2(d), the *Juvenile Justice (Care and Protection of Children) Act, 2000*.

<sup>26</sup> *Ibid*, Section 2(l).

– “*child in conflict with law*” means a child who is alleged or found to have committed an offence and has not completed eighteenth years of age as on the date of commission of such offence.

### (C) Object of the Act

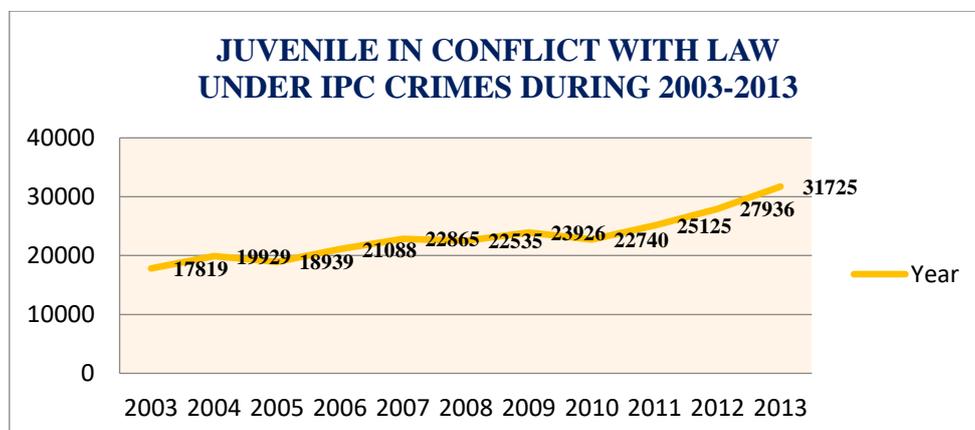
The main object behind the act has been stated in the following words – “A review of the working of the existing Children Acts would indicate that greater attention is required to be given to children who may be found in situation of social maladjustment, delinquency or neglect. The justice system as available for adults is not considered suitable for being applied to juveniles. It is also necessary that a uniform juvenile system should be available throughout the country which should make adequate provisions for dealing with all aspects in the changing social cultural and economic situation in the country. There is also need for larger involvement of informal system and community-based welfare agencies in the care, protection, treatment, development and rehabilitation of such juveniles.”

### (D) The Figures Of Juvenile Apprehended Till 2013

The figures of juvenile apprehended till 2013 were collected as per definition of *juvenile in conflict with law* in the Juvenile Justice (Care and Protection of Children) Act, 2000. The share of IPC crimes committed by juveniles to total IPC crimes reported in the country during 2003 – 2005 remained static at 1.0% which marginally increased to 1.1% in 2006 and remained static in 2007. This share increased marginally to 1.2% in 2008 thereafter decreased to 1.1% in 2009. This share further decreased to 1.0% in 2010 and thereafter marginally increased to 1.1% in 2011 and 1.2% in 2012 and remained static at 1.2% in 2013.

The details may be seen in *Figure 4*.

**FIGURE 4**



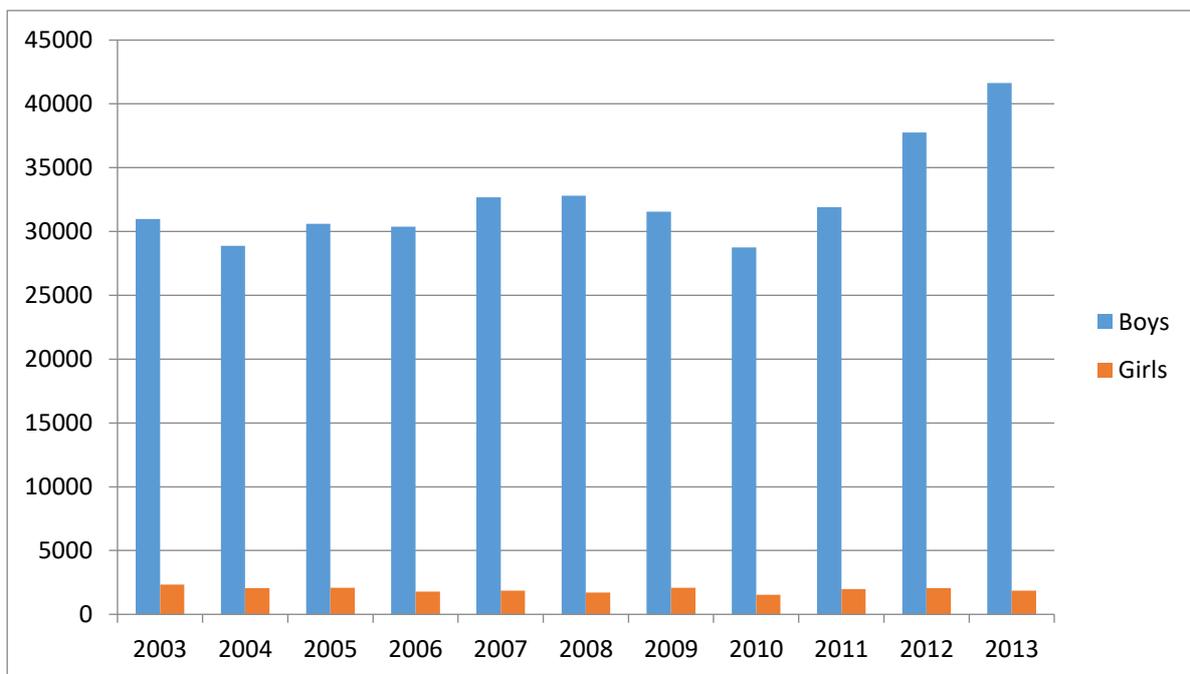
*Source:* National Crimes Records Bureau, Ministry of Home Affairs, Government of India, New Delhi *Crime in India – 2013*

## IPC CRIMES

The juveniles in conflict with law (IPC crimes) in 2013 have increased by 13.6% over 2012 as 27,936 IPC crimes by juveniles were registered during 2012 which increased to 31,725 cases in 2013. The highest decrease in cases of Juveniles in conflict with law was observed under the crime head 'Counterfeiting' (60.6%) followed by 'Arson' (13.8%), 'Riots' (12.1%), 'Dowry Deaths' (9.1%), 'Cheating' (8.1%) and 'Dacoity' (8.0%) in 2013 over 2012. The highest increase in the incidence of crimes committed by juvenile was observed under the head 'Assault on women with intent to outrage her modesty' (132.3%) followed by 'Insult to the modesty of women' (70.5%) and 'Rape' (60.3%). The details may be seen in *Figure 5*.

**FIGURE 5**

### JUVENILE APPREHENDED UNDER IPC AND SLL CRIMES (2003 – 2013)



*Source:* National Crimes Records Bureau, Ministry of Home Affairs, Government of India, New Delhi  
*Crime in India – 2013*

Boys and Girls below 18 years of age group have been taken as juveniles according to new definition of Juvenile Justice (Care and Protection of Children) Act, 2000.

### i.SLL CRIMES

Juveniles in conflict with law under various SLL crimes have increased by 2.5% in 2013 as compared to 2012, as 4,037 cases of Juveniles in conflict with law under SLL reported in 2012 which increased to 4,136 cases in 2013. The cases of juveniles in conflict with law have shown a substantial decrease of 47.4% cases under 'The Dowry Prohibition Act' (52.9%) followed

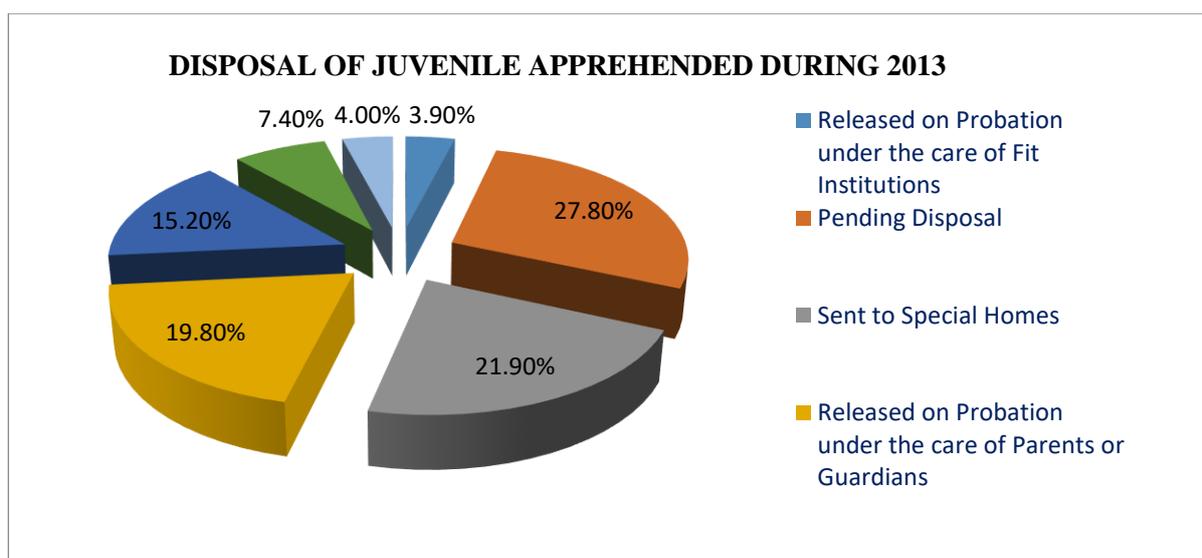
by, 'The SC/ST (Prevention of Atrocities) Act' (26.3%) and 'The Explosive & Explosive Substances Act' (12.5%) while cases reported under 'The Indecent Representation of Women (P) Act' increased by 450.0% (from 2 cases in 2012 to 11 cases in 2013), 'The Foreigners Act' (148.0%), 'The Indian Railways Act' (116.7%), 'The Indian Passport Act' (112.5%) and 'The Gambling Act' (100.0%) in 2013 over 2012.

The society has the duty to ensure and provide special protection to children. The court must take into account the personality and needs of the juvenile, and social reaction toward juveniles should be directed to education and assistance measures to assist in their development, remove causes of anti-social and criminal behaviour and prevent re-offending.

#### ii. Disposal Of Juveniles Apprehended

The details of disposal of juveniles apprehended are presented in **Table 10.13** of the *Crime India 2013*. A total of 43,506 juveniles were apprehended and produced before various courts during 2013. The percentage of juveniles awaiting trial at the end of 2013 was 27.8% (12,102 out of 43,506). Manipur, Sikkim and Uttarakhand have reported 100% disposal of juveniles apprehended during 2013. 15.2% (6,613) out of the total juveniles apprehended and sent to courts in the country (43,506) were disposed of after advice or admonition, 19.8% (8,599) were placed under care of parents / guardians, 3.9% (1,689) were sent to institutions, 21.9% (9,549) were sent to special homes, 4.0% (1,756) were dealt with fine and 7.4% (3,198) were either acquitted or their cases were otherwise disposed off. The details may be seen in *Figure 6*.

**FIGURE 6**



*Source:* National Crimes Records Bureau, Ministry of Home Affairs, Government of India, New Delhi *Crime in India – 2013*

## VI. CONCLUSION AND SUGGESTIONS

The crux of the Juvenile Justice System lies in its implementation. An overview of literature on the operations under the Children Acts reveals a wide gap between the theory and practice of juvenile in India. Even though the studies are concreted on certain regions and are limited to individual aspects of the Juvenile Justice System, they contain enough indicators to establish that the children covered under the system have not been getting the promised care. Non-implementation, lack of resources, inappropriate personnel, substandard services, and other problems, have been pointed out among the causes of the unsatisfactory implementation.

The situation did not change much even after the Juvenile Justice Act that was purposed to rectify the above situation. Now, the *Juvenile Justice (Care and Protection of Children) Act, 2000* has replaced the Juvenile Justice Act, 1986 with the same objective.

Now, with a view to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care and protection, development, treatment, social re-integration, adoption of child-friendly approach, rehabilitation and disposal of matters in the best interest of children, the Juvenile Justice (Care and Protection of Children) Act, 2015 has been enacted. The Act of 2015 makes provision for the establishment and recognition of a necessary number of Observation Homes, Juvenile Homes, and Special Homes by the State. Most of the States established or recognized one home only for a number of districts or for the whole State.

Most of the Homes received children from various districts. Children coming from far-off places were consequently alienated from their families and society. That made comprehensive aftercare services for their reintegration even more necessary. Various policy decisions relating to the building structure, staff pattern, qualifications and salary of the staff, type and standard of training programs determined whether a home could achieve its objective of ensuring care, protection, development and rehabilitation of its juvenile in conflict with law. If the salary is low and the qualification emphasize the custodial aspect over the protective, the persons likely to be appointed cannot be expected to achieve the avowed objective of providing alternative family care and environment to the children, that too without any orientation and training.

It is therefore, suggested that each State should establish three sets of Homes, one at the districts level and one each at the State level. Such a localized observation home should also ensure that the children are not moved far away from their families and dear ones. Children housed in these homes should be transferred to community-based programs in their district at the earliest on their recommendation of the psychiatrist or psychologist. The number of each category of

Homes may be increased by reference to the children requiring institutionalization. Then only the Juvenile Homes will really be treated as a home.

In conclusion, it may be said that children are the national assets. The quality of education of the children of today will determine the quality of life in India tomorrow. More than a century ago, *Abraham Lincoln* rightly said, “A child is a person who is going to carry on what you have started. He is going to sit where you are sitting, and when you are gone, attend to those things you think are important. You may adopt all the policies you please, but how they are carried out depends on him. He is going to move in and take over your churches, schools, universities and corporations. The fate of humanity is in his hands.”

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