

Juvenile Laws: A Protective Armour or A Hideout?

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Abstract

Children are the supreme assets of the country and therefore it is the duty of a welfare State like ours to focus on the developmental needs of the children. In this modernised world, children are getting matured at an early age and are prone towards delinquency with the passage of time. Juvenile Delinquency is not only a social problem of India but is a world wide concern. The United Nations has also taken steps by formulating conventions, guidelines and rules to prevent juvenile delinquency.

As per the report released by the National Crime Records Bureau in 2012, the incidence of juvenile crime is on rise. In these circumstances it is pertinent for us to know as to what makes a child to behave in a delinquent manner? Whether it is the family, society or the child himself?

There has been a demand to amend the provisions of the Juvenile Justice (Care and Protection) Act, 2000 specifically the age of juvenile. Hence this article focuses on concept of juvenile delinquency, the historical perspective of juvenile justice, various critical issues involved in administration of juvenile justice and the role played by the Honorable Supreme Court in securing juvenile justice.

Introduction:

Children are believed to be the gift of Gods and a heritage from the Lords. The importance of children in a country is invariably considered as a treasure and future of the nation. They are every country's most vital resource. If the children of a country are secured the country is secured. They are the foundation of any nation. It is because of this reason that their development is considered of paramount importance.

Nevertheless, denial of adequate opportunities for their development and various forms of discriminations and exploitations to which they are subjected to, have made the world community review the conditions of children. The manner in which children are brought up has made the world community to take several steps for their protection, well-being and development. Unfortunately the socio-economic factors, the incidence of neglect, abuse and deprivation, particularly in the poverty afflicted sections of the society have increased and gradually it is leading the children to commit

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crimes and engage in anti-social activities. Delinquency amongst children is not only the problem of few countries but it is a worldwide problem.

Concept of Juvenile Delinquency:

In order to understand the problem of juvenile delinquency, it is important to study the concept of juvenile delinquency. The word 'Juvenile' is derived from a Latin word '*juvenilis*' which means young person². Legally, the word 'juvenile' refers to a person who has not reached the age of 18 years and is in conflict with some laws³.

The word delinquency is derived from the Latin word "*delinquere*" meaning de i.e. away and linquere i.e. to leave, thus meaning to leave or to abandon⁴.

Delinquent means an offender, or a person failing in a duty, a criminal, culprit, miscreant or a wrong doer or a law breaker, norm breaker. Delinquency is referred as a state of being delinquent.

Different scholars view delinquency in their own manner. According to psychologists, delinquency is an under activity of the central nervous system. They feel that there are certain individuals with genetically based inability or reduced inability and because of this inability they cannot associate punishments with behavior. It may also be considered as a moral deficiency or an aggression caused out of frustration of one's need.⁵

Sociologists blame society for the delinquent behaviour of children. They say delinquency has something to do with misbehaviour that is not acceptable by the society at large. It indicates any failure in or omission of duty or fault or crime on a part of a child. It refers to large variety of disapproved behaviour of children and adolescents which the society does not approve of and for which some kind of punishment or corrective measure is justified in the public interest.

Truly speaking two things very important to study juvenile delinquency are the quality of behaviour and the degree of social deviance. Misbehaviour of a person may be silly or trivial which may not be deviant or it may be serious social deviance which may cause newspaper headlines. The behaviour of a person depends upon the culture and the norms imbibed into him since childhood⁶.

2 Webster's Dictionary

3 As per Juvenile Justice (Care and Protection) Act, 2000

4 Webster's Dictionary

5 Chauhan SS, Advanced Educational Psychology, p 494

6 Tappan PW, Juvenile Delinquency

The “norms” of one society may differ significantly from another society. What could be considered delinquency in Africa or Asia might not be delinquent behaviour in the United States. Laws, legal or cultural norms, belief systems, traditions all play a determining role in various aspects of our lives. These factors allow society to create ideals and expectations for their citizens. Hence Sociologists always try to widen the coverage of the meaning by taking into account all import of social developments.

Law defines Juvenile Delinquency as a term of crimes, offences and other infringement of law perpetrated by children i.e. persons below 18 years of age. It is also defined as any anti-social behavior by a minor, such behavior that would be criminally punishable if the actor were an adult but instead is usually punished by special laws pertaining to minors.

The Children Act, 1960 defines Juvenile Delinquent “as a child who has been found to have committed an offence”. This definition seems to be very restrictive and does not include behaviour that may not be criminal but may lead to criminalistic actions in future⁷. The Juvenile Justice Act, 1986⁸ defined ‘Delinquent juvenile’ as a juvenile who has been found to have committed an offence⁹. These were too harsh wordings which made the child to think before the trial that he is found committing an offence. The same has been replaced by the Juvenile Justice (Care and Protection) Act, 2000 which has changed the phrase of delinquent juvenile as "juvenile in conflict with law" and defines it as 'juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence.'¹⁰

According to United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")¹¹, a juvenile is a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult. The rules define a juvenile offender as a child or young person who is alleged to have committed or who has been found to have committed an offence.

UN Congress on Prevention of Crimes and Treatment of Offenders held in 1960¹² recommended that the meaning of juvenile delinquency should be restricted to the violation of the criminal wrong

7 Mitra NL, Juvenile Delinquency and Indian Justice System

8 Repealed by the Juvenile Justice (Care and Protection) Act, 2000

9 Section 2 (e) of Juvenile Justice Act, 1986

10 Section 2(l) of The Juvenile Justice (Care and Protection) Amendment Act, 2006

11 Adopted by General Assembly resolution 40/33of 29 November 1985

12 Second United Nations Congress on the Prevention of Crimes and Treatment of Offenders, London, England 8-19 August, 1960

and nothing should be considered as delinquency, which is not an offence if committed by adults.

Hence, in order to understand the concept of Juvenile Delinquency two approaches have to be adopted. One is sociological which is wider and a liberal concept and another is legal concept which is narrower and harsher. A question comes as to which approach would be better to define the term juvenile delinquency. The answer depends upon the objectivity. If our object is to just to look at the juvenile delinquents as an issue of law and order and for the administration of justice, then the legal definition should be applied which is a narrowed one. But if our object is to diagnose and treat the children who are showing signs of breaking the societal norms which may lead them to the world of crimes then the sociological approach has to be applied, as a child could be treated with sympathy well in advance. Though deviant behaviour cannot be equated with delinquent behaviour but at the same time we cannot wait and watch a child turning delinquent and then treat only after he has committed a crime.¹³

Though the legal definition does not cover children who are socially deviant but the parliament with its wisdom has covered even those children who have a greater tendency to turn criminals in future. The Act of 2000 covers children under two categories: child in conflict with laws (called as delinquent juvenile under the Act of 1986) and children in need of care and protection (called as neglected children under the Act of 1986). The first category of children are those who are alleged to have in conflict with laws. The second category refers to children who have not committed crimes but due to various situational factors they are not taken proper care and may turn criminals in future. The Act provides for a differential treatment to both categories of children depending on their developmental needs.

Hence Wirt and Briggs (1965), after reviewing various definitions concluded the concept of juvenile delinquency as:

“The delinquent, then, would be a person whose misbehaviour is a relatively a serious offence, which is inappropriate to his level of development; is not committed as a result of extremely low intellect, intracranial organic pathology, or severe mental or metabolic dysfunction; and is alien to the culture in which he has been reared. Whether or not the individual is apprehended or legally adjudicated is not crucial.”¹⁴

13 Sabnis MS, Juvenile Justice and Juvenile Correction: Pride and Prudence

14 As quoted in 23 Juv. Ct. Judges J. 32 (1972-1973) Mental Health Consultation in Juvenile Court; Huff, Frederick W.; Porter, Harry Jr.

Historical background

Juvenile Delinquency is not a recent phenomenon. It existed in all epochs and cultures. The first law relating to delinquency was in Roman. It had a legislation governing judicial proceedings with children. But the first juvenile court in the whole world was established in Chicago in 1899¹⁵. The philosophy was to remove the young delinquent from the class of adult criminals.

In India, the early part of the 19th century saw no substantial body of law relating to liabilities, treatment and welfare of children. Under the common law principle of equality before law, everyone was liable to ordinary proceeding in the ordinary courts and hence no special provision was made for the children. The common law principles needed radical changes in the light of social conditions following industrial revolution. There was an increase in young offenders and children going wayward who needed to be dealt with institutions distinct and separate from ordinary courts¹⁶.

In India, the Apprentice Act was passed in 1850 which sought to provide for better treatment of children between 10 and 18 years of age. The Indian Penal Code came after another ten years had passed. Though it is not a specific legislation dealing with juvenile justice, nevertheless it has some provisions when it comes to underage criminals. Then came the Reformatory Schools Act 1876 and the same was modified in 1897 which provided special courts which could order 3-7 years detention and training instead of punishment¹⁷.

The first move to enact a Children's Act came from the Indian Jails Committee (1919-1920) which recommended special treatment for young offenders to reform and rehabilitate them. The first of these legislations were passed by the states Madras in 1920, Bengal in 1922 and Bombay in 1924 which provided special procedure and institutions for the trial, custody, correction and rehabilitation of delinquent children. The trend continued and various states enacted legislations for children with some variations¹⁸.

Since then, as Prof. B.B. Pande of Delhi University puts it, "the twin concepts of 'juvenile delinquency' and 'juvenile justice' have gone through a constant process of evolution and

15 Chicago History, Winter, 1998-1999

16 Pramila Pandit Barooah, Handbook on Child with Historical Background, Concept Publishing Company, Pg. 59

17 Ibid

18 Ibid at p 60

refinement.¹⁹”

In 1960 a new Children Act was passed for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected and delinquent children and for the trial of delinquent children in Union Territories²⁰. But the most important problem was different states had different Acts to deal with juvenile delinquency which led to inequality amongst children belonging to different states. The Supreme Court observed in the case of *Sheela Barse v. UOI*²¹ to have a uniform legislation in the entire territory of the country and to have mandatory provisions for ensuring social, economic and psychological rehabilitation of the children who are either accused of offences or are abandoned or destitute or lost. Based on the observations of the Supreme Court the Juvenile Justice Act, 1986 was passed for the care, protection and rehabilitation of juvenile delinquents and neglected children. This Act was replaced by the Juvenile Justice (Care and Protection) Act, 2000. The aim of the Act of 2000 is to consolidate and amend the law relating to juveniles in conflict with law (delinquent juvenile) and children in need of care and protection (neglected juveniles) 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 the Act²².

The Juvenile Justice (Care and Protection) Act, 2000 is a progressive legislation and provides for a primary legal framework for treatment of juveniles. The Act of 2000 was enacted with an aim for incorporating its international obligations under international law into its domestic legislations. India is a signatory of the United Nations Convention on the Rights of the Child of 1989, the United Nations Standard Minimum Rules for Administration of Juvenile Justice 1985 i.e. “Beijing Rules” and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty 1990. The Juvenile Justice (Care and Protection) Act 2000 is a law in compliance to its obligation to the aforesaid international treaties. The principle behind the legislation is that juveniles lack the physical and mental maturity to take responsibility for their crimes; and because their character is not fully developed, they still have the possibility of being rehabilitated. The Act has been amended in the year 2006 and 2011.

19 Pande, B.B., *Rethinking Juvenile Justice*: Armit Das Style, (2000) 6 SCC (jour) 1

20 Ademwalla Maharukh, *Child Protection and Juvenile Justice System: For Juvenile in Conflict with Law*, 13, Childline India Foundation, December 2006

21 (1986) 3 SCC 632

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

Factors affecting Juvenile Delinquency

In order to understand the problem of juvenile delinquency it is important to study the various risk factors affecting it. Researcher have concluded that there is no single path to delinquency and the presence of several risk factors increases a child's chance of offending. These risk factors can be broadly divided into two parts:

1. Individual factors which include submissiveness, defiance, hostility, impulsiveness, insecurity feeling, fear, emotional conflicts, lack of self control, intellectual weakness, mental disorders, aggression etc.

2. Situational factors are derived from:
 - (a) Family which includes parental discipline, parental affection, cohesiveness in family, conduct of standards at home, substitute parents, father's working habits, economic conditions of family, conjugal relations of parents, broken homes, affection of siblings, household duties, influence of brothers and sisters, crime dominated areas, culture refinement at home, abuse by parents, poor monitoring by parents, family planning and number of children.

 - (b) Peer group relation, delinquent friends and bad company. Bad peer group may give rise to gang delinquency.

 - (c) School environment plays a very important role in the overall development of a child. A child's adjustments to school mates, attitudes towards school, failure in classes or academic failure, humiliation at school, sexual abuse and absconding from schools may affect a child negatively.

 - (d) Media plays a vital role in this modernised era. The movies and daily soaps watched by children affect the psychology of a child.

 - (e) Working environment is to be considered when a child is employed. He constantly observes the habits of adults around him and many a times he is subjected to sexual activities also.

(f) Social disorganization like partition in families, war, riots and natural calamities are also some of the factors to be considered for a child becoming delinquent.

Critical issues relating to Juvenile in Conflict with laws:

A juvenile in conflict with laws means a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence. This definition was amended in the year 2006 to set at rest all controversies raised by various Courts.

Determination of Age of juvenile:

The controversy was regarding the determination of age of a juvenile. Children below 7 years of age are given complete immunity²³, children who are between 7 and 12 and who have not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion are also immune from criminal liability²⁴. Children between 7 to 12, who are able to understand the repercussions of their act and all children above 12 and below 18 are dealt in accordance with the provisions of Juvenile Justice (Care and Protection) Act, 2000. The object is not to treat such child as an adult for their criminal behaviour but to reform and rehabilitate them.

There are two ways to determine the age of the juvenile. One is the documentary evidence and the other is the medical evidence. In *Jaya Mala v. Home Secretary, Government of J & K*²⁵, the Supreme Court held that the age as ascertained by the medical examination is not a conclusive proof of age. It is mere opinion of the doctor and a margin of two years could be on either side. In case of *Bhoop Ram v. State of UP*²⁶, the Court held that in case of conflict between documentary evidence and medical report, the documentary evidence will be considered to be correct. It means juvenility of a child depends upon 'documentary evidence'. The validity of the documentary evidence produced before the court can always be challenged.

23 Section 82 of Indian Penal Code, 1860

24 Section 83 of Indian Penal Code, 1860

25 AIR 1982 SC 1297

26 AIR 1989 SC 1329

The Apex Court in the case of Babloo Passi and anr. v. State of Jharkhand²⁷, held that no fixed norm had been laid down by the Act for the age determination of a person and the plea of juvenile must be judged strictly on its own merit. The medical evidence as to the age of a person, though a very useful guiding factor, is not conclusive and has to be considered along with other cogent evidence.

Another issue that the Courts faced was when can the benefit of juvenility be given to the child? In Umesh Chandra v. State of Rajasthan²⁸, it was held that it is the date of offence that has to be considered. The Court in its ruling held that:

“As regards the general applicability of the Act, we are clearly of the view that the relevant date for the applicability of the Act is the date on which the offence takes place. Children's Act was enacted to protect young children from the consequences of their criminal acts on the footing that their mind at that age could not be said to be mature for imputing *mens rea* as in the case of an adult. This being the intendment of the Act, a clear finding has to be recorded that the relevant date for applicability of the Act is the date on which the offence takes place...We are clearly of the view that the relevant date for applicability of the Act so far as age of the accused, who claims to be a child, is concerned, is the date of the occurrence and not the date of the trial.”

But the same was overruled in the case of Arnit Das v. State of Bihar²⁹. The Court held that the date of commission of offence is irrelevant and the date of bringing the accused in the court has to be taken into account. The Court in its words held that “So far as the present context is concerned we are clear in our mind that the crucial date of determining the question whether a person is a juvenile is the date when he is brought before the competent authority”

This was again corrected in the case of Pratap Singh v. State of Jharkhand³⁰, where the Court held that “the reckoning date for the determination of the age of the juvenile is the date of an offence and not the date when he is produced before the authority or in the Court³¹. Hence the decision in Umesh Chandra's case was held to be a correct law. It was further observed in Pratap Singh's case

27 2008(13)SCALE137

28 AIR 1982 SC 1057

29 AIR 2000 SC 2244

30 AIR 2005 SC 2731

31 This view was again upheld in case of Satbir Singh V. State of Haryana, 2005 AIR (SC) 3546; Jameel V. State of Maharashtra, 2007 AIR (SC) 971; Ranjeet Singh V. State of Haryana, 2008(3) SCC (Cri) 784.

that:

“All this exercise would have been avoided if only the legislature would have taken care not to leave an ambiguity in the definition of 'juvenile' and would have clearly specified the point of time by reference to which the age was to be determined to find a person to be a juvenile.”

After Pratap Singh's case, the legislature through the amendment in 2006 removed any doubt by setting out in Section 2 (l) definition of juvenile in conflict with law to mean a juvenile who is alleged to have committed an offence and has not completed 18 years of age as on the date of commission of such offence.

Explanation to Section 20 has also been added which further clarifies that in all pending cases including trial, revision, appeal or any other criminal proceedings in respect of a juvenile in conflict with law, in any Court, the determination of juvenility of such a juvenile shall be in terms of clause (l) of section 2, even if the juvenile ceases to be so on or before the date of commencement of this Act and the provisions of this Act shall apply as if the said provisions had been in force, for all purposes and at all material times when the alleged offence was committed.

Further Section 7(a) has also been added which allows a person to raise a plea of juvenility even after final disposal of the case and puts obligation on the court to conduct an inquiry to ascertain such person's age as on the date of offence and if found to be a juvenile on that day, to transfer the case to the Juvenile Justice Board for appropriate orders. Section 64 of the Act extends the benefit of the provisions of Act to those persons undergoing sentence of imprisonment at the commencement of the Act and who were below 18 years of age as on the date of offence.

A public uproar to change to age from 18 to 16:

The December 16, 2012 Delhi gang rape case triggered the issue relating to the age of juvenile after one of the co-accused who was described by the Delhi police as the most brutal amongst all accused was found to be juvenile. The court relying upon his birth certificate and school documents declared him to be of 17 years and 6 months old and hence to be tried by the Juvenile Justice Board.

In light of heinous crime being committed by one of the co-accused, two petitions were filed by BJP leader Subramanian Swamy and parents of the December 16 gang-rape victim, challenging the constitutional validity of the Juvenile Justice (Care and Protection of Children) Act 2000. The petitioners had sought fresh interpretation of the term 'juvenile'.

They pleaded that the juvenile, accused in December 16, 2012 gangrape be prosecuted in a criminal court in view of the gravity of his offence. However the Supreme Court refused to lower the age of a juvenile from 18 to 16, saying the legislature has fixed the age, which is constitutionally permissible.

The Court observed that:

“If the legislature has adopted the age of 18 as the dividing line between juveniles and adults and such a decision is constitutionally permissible, the enquiry by the courts must come to an end. Even otherwise, there is a considerable body of world opinion that all under-18 persons ought to be treated as juveniles and separate treatment meted out to them so far as offences committed by such persons are concerned.”³²

A Judicial Committee headed by Justice J. S. Verma, a former Chief Justice of India and one of India's most highly regarded Chief Justices and eminent jurists, was appointed by the Central government to submit a report to suggest amendments to criminal law to sternly deal with sexual assault cases. Standing firmly against lowering of the age criteria for juveniles accused of heinous crimes including rape, the Justice J.S. Verma Committee report on ‘Amendments to Criminal Law’ noted that “the Juvenile Justice Act has failed miserably to protect the children in the country. We cannot hold the child responsible for a crime before first providing to him/her the basic rights given to him by the Indian Constitution.”

The Committee cautioned, “Any attempt of reducing the age of juvenility, or excluding certain children from the purview of the Juvenile Justice (Care and Protection of Children) Act 2000 on the basis of nature of the offence and age, will violate guarantees made under the Constitution and international instruments, the United Nation Convention of Rights of the Child (UNCRC).

The former Chief Justice of India added in the light of Delhi gangrape case: "The law is for general application and not for a particular case. And at any rate criminal law can't be retrospective. Even if a law were to be made today it will only be applicable to future cases."

Sub delinquency or pre-delinquent acts are not included under the Act of 2000:

Sub-delinquent acts are not offences under any law but they help us to understand the psychology of

32 The Hindu, New Delhi, 28th March, 2014

a child. Some of the examples of sub delinquent acts are hitting animals, bunking schools, committing trivial offences etc. Children showing these kinds of behaviour may have more tendencies to turn delinquent in future. The Act of 2000 deals with children in need of care and protection and provides for a child friendly procedure for neglected children, but it is observed that the provisions are not implemented in its real spirit. Street children, beggars, orphaned, working children, mentally and physically challenged children, abused and tortured children or those who are victims of armed conflict like riots etc are considered as Children in need of care and protection. The provisions of the Act are silent for children committing sub- delinquent acts.

Schools can play a major role by including correctional measures against sub delinquent acts or pre delinquent acts in the school code. Punishment is not the ultimate remedy in case of juvenile delinquents instead corrective measures should be taken which include morals, values, brotherhood, patriotic feelings, entertainment and quality education.

International Concerns

As mentioned earlier, Juvenile delinquency is a global problem. Various socio-cultural factors have been responsible for increase in crimes committed by children. These problems had caught attention of the world community and the United Nations has taken active steps to prevent juvenile delinquency by putting obligations on the State Parties right from its establishment in the year 1945.

Over history there have been a number of international treaties and documents that outline the rights of a child. Prior to World War II the League of Nations had adopted the Geneva Declaration of the Rights of the Child in 1924. The United Nations took its first step towards declaring the importance of child rights by establishing the United Nations International Children's Emergency Fund in 1946 (The name was shortened to United Nations Children's Fund in 1953, but kept the popular acronym UNICEF). Two years later the UN General Assembly adopted the Universal Declaration of Human Rights, making it the first UN document to recognise children's need for protection.

The first UN document specially focused on child rights was the Declaration on the Rights of the Child, but instead of being a legally binding document it was more like a moral guide of conduct for governments. It was not until 1989 that the global community adopted the United Nations

Convention on the Rights of the Child, making it the first international legally binding document concerning child rights.³³

A brief account of various international instruments is given as under:

Convention on the Rights of Child, 1989:

It entered into force on 2.9.1990. India ratified the Convention on 10.12.1992. The Convention defines child as every human being below the age of eighteen years. Article 37 of the Convention provides as that “No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.”

Guidelines for Action on Children and Criminal Justice System, Vienna, 1997:

The Guidelines for Action on Children in the Criminal Justice System were developed at an expert group meeting held at Vienna from 23 to 25 February 1997 with the financial support of the Government of Austria. In developing the Guidelines for Action, the experts took into account the views expressed and the information submitted by Governments. Twenty-nine experts from eleven States in different regions, representatives of the Centre for Human Rights of the Secretariat, the United Nations Children's Fund and the Committee on the Rights of the Child, as well as observers for non-governmental organizations concerned with juvenile justice, participated in the meeting. The Guidelines for Action were addressed to the Secretary-General and relevant United Nations agencies and programmes, States parties to the various international juvenile instruments.³⁴

International Covenant on Civil and Political Rights, 1966:

It entered into force on March 23, 1976. Article 10 of the Covenant specifically provides that accused juveniles should be treated separately from adults. The procedure of their trial should be speedier and the treatment should be for their reformation and social rehabilitation.

United Nations Guidelines for Prevention of Juvenile delinquency (Riyadh Guidelines), 1990:

The guidelines reveal a positive, pro-active approach to prevention and are very comprehensive. The Guidelines certainly express a growing awareness that children are fully-fledged human beings, an attitude which was far from dominant in Western (oriented) countries in the 19th century, but which is rather obvious in other very recent regulations as the United Nations Convention on the

33 <http://www.childlineindia.org.in> retrieved on 16th June, 2014

34 <http://www.un.org/documents/ecosoc/res/1997/eres1997-30.htm> retrieved on 15th June, 2014

Rights of the Child (1989)³⁵:

United Nations Rules for the Protection of Juvenile deprived of their liberty, 1990. (General Assembly Resolution 45/113 of 14.12.1990):

The Rules are intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms, consistent with human rights and fundamental freedoms, and with a view to counteracting the detrimental effects of all types of detention and to fostering integration in society.

United Nations Standard Rules for Administration of Juvenile Justice, 1985 (Beijing Rules):

The Beijing Rules, adopted by the United Nations in 1985, provide guidance to States for the protection of children's rights and respect for their needs in the development of separate and specialised systems of juvenile justice. The Beijing Rules were the first international legal instrument to comprehensively detail norms for the administration of juvenile justice with a child rights and development oriented approach. They were a direct response to a call made by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders which convened in 1980.

The Rules operate within the framework of two other sets of rules governing juvenile justice, both adopted in 1990: The United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the JDL Rules). These three sets of rules can be seen as guidance for a three stage process: firstly, social policies to be applied to prevent and protect young people from offending (the Riyadh Guidelines); secondly, establishing a progressive justice system for young persons in conflict with the law (the Beijing Rules); and finally, safeguarding fundamental rights and establishing measures for social re-integration of young people once deprived of their liberty, whether in prison or other institutions (the JDL Rules)³⁶.

Conclusion

Juvenile Delinquency is as such a very serious problem for a country like India, where population is increasing very rapidly. According to the Report- Crime in India- 2012³⁷ Statistics released by The National Crime Records Bureau there has been an increase in the incidence of juvenile crime. Comparing the crimes committed by children over a decade, we find that in 2002 there were 18560

35 http://www.child-abuse.com/childhouse/childrens_rights/dci_del8.html retrieved on 15th June, 2014

36 http://child-abuse.com/childhouse/childrens_rights/dci_be29.html retrieved on 15th June, 2014

37 Released on 4th June, 2013

incidence of juvenile crime which was 1% of total crimes committed. However in year 2012 there were 27936 incidence of juvenile crime which was 1.2% of total crimes. This is an alarming situation as crimes like murder, rape are on an increase according to the report.

Most important is the crimes committed by children between 16 to 18 years of age. It is important to address the needs and demands of children between 16 to 18 years to prevent them from committing crimes. According to NCRB report of 2012, out of total juveniles apprehended under IPC and SLL, 66.5 % of them are children belonging to the age group of 16 and 18. Hence it is very important to focus on children belonging to this age group. A psychological treatment should be given to these children to bring them back to mainstream.

Juvenile delinquency being a social problem, it is important for us to identify the root cause of delinquency. Certain factors that have increased juvenile delinquency can be identified as urbanisation, increase in demands of society, globalisation etc. Also the socio-cultural patterns of our society have changed over a period of time.

The provisions relating to children in need of care and protection under the Act of 2000 be implemented strictly so as to cultivate these children to become responsible citizens.

Though the Parliament and State Assemblies have been playing an effective role in bringing justice to the children by translating Constitutional directives into legislative policies but still we find gaps, distortions in fulfilling the object of these legislations. Hence continuous efforts should be made at the governmental and non-governmental levels to bring forward progressive legislation and secure the future of India. Community involvement should be encouraged in order to bring effective justice to these children.