

MODULE 1:**EVOLUTION OF JUVENILE JUSTICE SYSTEM IN INDIA – PART 1****Component I(A) - Personal Details:**

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Component I(B) - Description of Module:

Subject	Law
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Pre-requisites	Basic knowledge of what is juvenile justice and how is it different from the justice system for adults
Learning Objectives	<ul style="list-style-type: none"> • To understand what is juvenile justice and the system of juvenile justice administration; • To develop insights into the need for a separate justice system for juveniles; • To have an overview of the fundamental concepts and varied approaches to juvenile justice; and • To understand the historical evolution

	of the law on juvenile justice in India.
Key words	Juvenile justice, delinquency, children, conflict, law

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- B. Who is a Juvenile?
- C. What is Juvenile Delinquency?
- D. The Need for a Separate System of Criminal Justice for Juveniles
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Books and Articles

Abstract

This module introduces the reader to the concept of juvenile justice, the rationale for the same, the underlying philosophy and principles. It also traces the historic evolution of law on juvenile justice in India.

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A. INTRODUCTION

Juvenile justice is a system of law that is intended to protect and promote the human rights of all young people. It is a branch of law that deals with minor / under-aged persons who have been accused of offences or who are neglected or abandoned by their parents / guardians. It is more concerned with the rehabilitation of its charges than is adult criminal justice.¹ In the context of juveniles accused of offences, termed as juveniles in conflict with the law, international standards emphasize the importance of prevention as well as rehabilitation. International standards recognize “the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth.”²

Juvenile justice policy in India is largely governed by the constitutional mandate given under Article 15 that guarantees special attention to children through necessary and special laws and policies that safeguard their rights.³ The policy is also founded on the constitutional guarantees such as the right to equality, protection of life and personal liberty and the right against exploitation (enshrined in Articles 14, 15, 16, 21, 23 and 24). The Indian Constitution emphasizes on the duty of the State to prevent exploitation of children, and to promote children’s welfare.

The policy is also influenced by international standards and jurisprudence, discussed more elaborately in Modules 3 and 4. The present law, Juvenile Justice (Care and Protection of

¹ Van Bueren, Geraldine (2006), ‘Article 40: Child Criminal Justice’, in A. Alen, J. Vande Lanotte, E. Verhellen, F. Ang, E. Berghmans and M. Verheyde (eds.), *A Commentary on the United Nations Convention on the Rights of the Child*, Leiden: Martinus Nijhoff Publishers, p. 170

² Convention on the Rights of the Child, Art. 40

³ Bajpai, G.S. (2006). ‘*Making it Work: Juvenile Justice in India*’, Paper presented at the National Seminar on Care & Protection of Disadvantaged Children in Urban India at RCUS, 17-18 Nov. 2006, Lucknow, available at <http://www.forensic.to/webhome/drgsbajpai/lcwseminar.pdf>, accessed 18 July 2012, pp. 1

Children) Act 2000, amended in 2006, was replaced in 2015 by a new law – Juvenile Justice (Care and Protection of Children) Act 2015.

B. WHO IS A JUVENILE?

A Juvenile can be defined as a child who has not attained a certain age, at which, like an adult, under the law of the land, can be held liable for his criminal acts. The term juvenile justice emerged from the Latin word ‘juvenis’, which means ‘Young’, hence a juvenile justice system is one that is specially established for the young. As per the Juvenile Justice (Care and Protection of Children) Act 2015, the term ‘juvenile’ refers to a child below the age of 18 years.⁴ The 2015 Act deals with two kinds of children – child in conflict with the law, defined as a child who has alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of the offence;⁵ and a child in need of care and protection – which includes many situation where children are abused, exploited, neglected or inflicted violence upon, without being cared for by their parent / guardian.⁶

C. WHAT IS JUVENILE DELINQUENCY?

Juvenile delinquents are those who have not attained the age of adulthood as per the law of the land, and have yet, acted in a manner that is prohibited by law. Such prohibited behaviour largely consists of acts that would be termed as offences under criminal law when committed by adults.

⁴ S. 2(35) of Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 2015 Act)

⁵ S. 2(13) of the 2015 Act

⁶ S. 2(14) of the 2015 Act

Since the child is a part of society, the social context around him / her is bound to have an effect on the child's attitude and behavior. Poverty, unemployment, exposure to and experience of violence, abuse, inequalities and changing values are bound to impact children and their behavior. There is a complex mix of social, economic and human factors that contribute to juvenile delinquency. Risk factors contributing to juvenile delinquency may be categorized as individual risk, family risk, mental health risk and substance abuse risk.⁷ Individual risk factors are those factors pertaining to the juvenile as an individual, including his / her physical, mental and emotional self. Family risk factors are those factors pertaining to parents and other family members who are responsible for the upbringing of the juvenile. They include upbringing by relatives (in the absence of parents) who may not have emotional attachment towards or provide proper attention to the needs of the juvenile. Mental health risk factors are those factors which are precursors of certain mental health conditions, that tend to be displayed through juvenile delinquent behavior. Substance abuse risk factors are those factors pertaining to access to and abuse of drugs and other forms of illegal substances. Matrix 1 below further illustrates various risks and causative factors for juvenile delinquency. It is pertinent to note that the Juvenile Justice Act 2000 does not use the term 'juvenile delinquent' but the term 'child in conflict with the law'.

⁷ For more details see Prakash Haveripet (2013). 'Causes and Consequences of Juvenile Delinquency in India', *Recent Research in Science and Technology* 2013, 5(3), pp 29-31

Individual Risk Factors

include poor education, impulsive behaviour, uncontrolled aggression.

Family Risk Factors

include lack of proper parental supervision, death or divorce of parents, ongoing parental conflict, parents with scant respect for the law.

Mental Health Risk Factors

includes several mental health conditions such as conduct disorders - lack of empathy and disregard for societal norms.

Substance Abuse Risk Factors

includes the illegal use of substances (drugs) as well as the illegal motivation of young people to commit criminal offences to obtain money to purchase substances.

Matrix 1: Causative Factors for Juvenile Delinquency

The National Crime Records Bureau statistics indicate that while the cases registered against juveniles in conflict with the law has seen a steady increase in the last decade, the share of IPC crimes registered against juveniles to total IPC crimes registered in the country during 2005 was at 1.0% which marginally increased to 1.1% in 2015.⁸ This is shown in Matrix 2 below. Out of a total of 41,385 juveniles who were apprehended in 2015, 40,468 were boys and 917 were girls. Hence boys are disproportionately higher than girls among juveniles in conflict with the law. In 2015, the ratio of girls to boys who were apprehended for offences under the Indian Penal Code was 1:45.

⁸ National Crime Records Bureau (2016), *Crime in India 2015*, New Delhi: Ministry of Home Affairs, Government of India, Chapter 10

Year	Cases Registered Against Juveniles	Percentage of cases against Juveniles to Total Cognizable Crimes
2005	18939	1.0
2006	21088	1.1
2007	22865	1.1
2008	24535	1.2
2009	23936	1.1
2010	22740	1.0
2011	25125	1.1
2012	27936	1.2
2013	31725	1.2
2014	33526	1.2
2015	31396	1.1

Matrix 2: Offences Committed by Juveniles in Conflict with the Law in India 2005-2015

Source: Crime in India 2015, National Crime Records Bureau, Ministry of Home Affairs, Government of India

Unlike popular belief, rape is not the offence for which maximum cases have been registered against juveniles in conflict with the law, as indicated in Matrix 3 below. In 2015, the highest share of cases registered against juveniles were reported under the crime head 'theft' (19.2%), 'criminal trespass/burglary' (8.3%), 'rape' (5.4%) and kidnapping & abduction' (5.2%) and 'Causing injuries under rash driving/road rage' (4.9%). These five crime heads have together accounted for 43.0% of total IPC cases (31,396 cases) of juveniles in conflict with law.

Murder (S. 302 IPC)	Attempt to Commit Murder (S. 307 IPC)	Rape (S. 376 IPC)	Kidnapping & Abduction (Sections 363, 364, 364A & 366)	Theft	Criminal Trespass / burglary (S. 457-460 IPC)
853	980	1688	1630	6046	2605

Matrix 3: Incidence of Major Offences, Registered Against Juveniles in Conflict with the Law in 2015

Source: Crime in India 2015, National Crime Records Bureau, Ministry of Home Affairs, Government of India

D. NEED FOR A SEPARATE SYSTEM OF CRIMINAL JUSTICE FOR JUVENILES

World history bears witness to the fact that children have been prosecuted and punished for commission of offences in adult courts, and lodged in jails along with adults.⁹ It is in the last century that a consciousness has arisen, leading to a separate justice process for juveniles. Despite the existence of the juvenile justice system in India, there is often no clear understanding among members of the public as to why the juveniles cannot be treated like adults, prosecuted in adult courts, punished like adults and lodged in adult jails. Whenever a juvenile is accused of committing a heinous crime, there is a public outcry that the juvenile justice system is lenient, and a demand for exemplary and stringent punishment with deterrent effect, as a way of providing justice to the victim. Such responses and demands arise from an incorrect understanding of the juvenile justice system and philosophy behind the same. They have resulted in more punitive responses to juvenile offenders

There are many reasons and arguments that are advanced in favour of a separate criminal justice system for juveniles.

- It is a fundamental principle in law that if unequals are brought on one platform and treated in the same manner, that would result in inequality, not equality. Children are differently situated from adults.

⁹ For more details, see Platt A.M. (1977), *The Child Savers: The Invention of Delinquency*, Chicago: University of Chicago Press

- Children are one of the most vulnerable sections of the society and are victims of exploitation and abuse by parents, guardians and the larger society. Hence they require a humane approach, instead of a law and order approach or a retributive approach to justice.
- Millions of children are left on the streets to fend for themselves, abused, forced to work and beg, subjected to violence and denied a right to a dignified life, which is the human right of all, including children. They are in dire need of care and protection from the State. A major contributory factor to children coming in conflict with the law, is the abuse / exploitation / neglect meted out by society to the concerned child. A manner in which the society 'repairs' the harm caused is by adopting a humane, rehabilitative and reparative approach to children.
- Putting children in jail with adults would not help them reform or reintegrate with society but would cause them to become hardened criminals.
- Children are often not aware of the consequences of the acts they commit due to their tender age; hence if those acts are punishable offences, they ought to be treated differently from adults who are presumed to know the consequences of the acts they do.

The bullet points below provide a comparison of the differences between the juvenile justice system and the criminal justice system that is applicable to adults in India, in the words of the Supreme Court:¹⁰

- FIR and charge-sheet in respect of juvenile offenders is filed only in 'serious cases', where adult punishment exceeds 7 years.

¹⁰ *Dr. Subramanian Swamy and Others vs. Raju Thr. Member of Juvenile Justice Board and Another* (2014) 8 SCC 390, at para 38

- A juvenile in conflict with the law is not “arrested”, but “apprehended”, and only in case of allegations of a serious crime.
- Once apprehended, the police must immediately place such juvenile under the care of a Welfare Officer, whose duty is to produce the juvenile before the Board. Thus, the police do not retain pre-trial custody over the juvenile.
- Under no circumstances is the juvenile to be detained in a jail or police lock-up, whether before, during or after the Board inquiry.
- Grant of bail to juveniles in conflict with the law is the rule.
- The Juvenile Justice Board conducts a child-friendly “inquiry” and not an adversarial trial. This is not to say that the nature of the inquiry is non-adversarial, since both prosecution and defence submit their cases. Instead, the nature of the proceedings acquires a child-friendly colour.
- The emphasis of criminal trials is to record a finding on the guilt or innocence of the accused. In case of established guilt, the prime object of sentencing is to punish a guilty offender. The emphasis of juvenile ‘inquiry’ is to find the guilt/innocence of the juvenile and to investigate the underlying social or familial causes of the alleged crime. Thus, the aim of juvenile sentencing is to reform and rehabilitate the errant juvenile.
- The adult criminal system does not regulate the activities of the offender once s/he has served the sentence. Since the JJ system seeks to reform and rehabilitate the juvenile, it establishes post-trial avenues for the juvenile to make an honest living.

E. APPROACHES TO JUVENILE JUSTICE

The need-based / welfare-oriented / charity-based approach influenced law and policy on juveniles for centuries. This approach perceived children in need of care and protection as tragic victims of circumstance, deserving sympathy and pity. Charities gained importance as a means for the survival of such children. Since the charities were bestowing a benefit to such children out of their benevolence, they expected children to be grateful to them and abide by their conditions. Though some children benefitted from the welfare approach, by and large, such an approach was disempowering for children as they had no say in what would be the 'benefit' given to them, the manner or duration for which they were given the benefit. While the welfare approach was well-intended, with a particular focus on the welfare of children, it did not adequately focus on developing their potential to the maximum in order that they become capable human beings. The charity / welfare approach was particularly problematic as it did not recognize the capacity of children to participate in / voice their opinion on crucial decisions that affected their lives. Further, it did not aim at promoting inclusion or mainstreaming of such children into society in the long run. Its approach led to segregation rather than integration of children in mainstream society. While charitable organizations working on caring for children play a supportive role, it is imperative that persons administering such charities acknowledge and promote empowerment of children, warranting the society's respect for their 'rights', rather than addressing the perceived 'needs' of children.

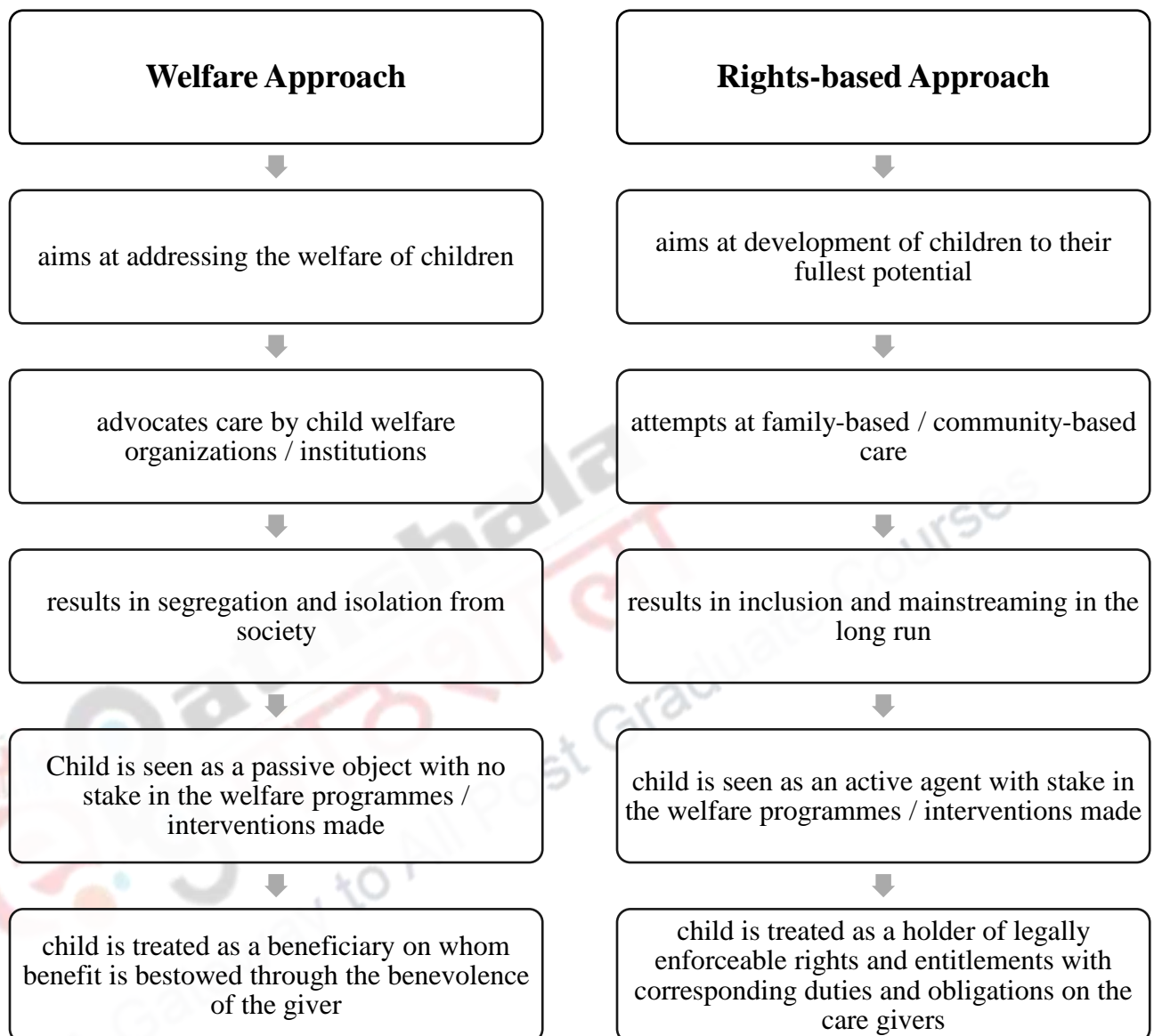
However, with the formulation of international standards on child rights, particularly the United Nations Convention on the Rights of the Child, there was a paradigm shift from a welfare-oriented, charity-based approach to a rights-based approach. This approach perceived issues pertaining to the child as legally enforceable rights and entitlements, with corresponding duties and responsibilities on the State, family and community at large.

The present Indian law, which witnessed major amendments in 2000, and thereafter in 2006 and 2015, is aligned with the rights-based approach to children and to juvenile justice.¹¹ The evolution of international standards of juvenile justice are discussed in further detail in Modules 3 and 4. Matrix 4 below indicates the differences between the need-based/ welfare-oriented approach and the rights-based approach to children.¹²



¹¹ For more details, see Ved Kumari (2004), *The Juvenile Justice in India: From Welfare to Rights*, New Delhi: Oxford University Press, p. 1

¹² For more details on the welfare and rights-based approaches, see Paromita Shastri & Enakshi Ganguly Thukral, *Blind Alley: Juvenile Justice in India*, New Delhi: Haq Centre for Child Rights



Matrix 4: Difference Between Welfare and Rights-based Approaches

F. PUNISHMENT VERSUS REHABILITATION

There is no denial of the fact that young people sometimes commit heinous offences such as murder and rape. Though most juvenile offences may not result in grievous injury or a

severe loss of property, in some instances, it does. The moot question is – what is the best response to such heinous offences by juveniles? How is the juvenile to be treated by the legal system such that he / she learns from their mistakes and makes more socially productive and responsible decisions in future? Which response would amount to a sound investment of public funds? How should law balance the need for safety of the community with the need for each juvenile to develop to his / her potential? There are no easy answers to these questions. Every country has a trajectory of law-making and implementing processes that make a viable attempt to respond to such questions.

However, the law and policy on juveniles ought to be shaped by the causative factors discussed above, such that the root causes will be addressed through law, and not merely the manifestation of the same – which is the act / offence committed by the juvenile.

Punishment is not always an effective response to criminal offences committed by juveniles. Sometimes, punishment, incarceration, isolation from society, exposure to harassment and torture by state authorities in custodial situations, restrictions in human interactions, naming, shaming, labelling and stigmatization can cause the juvenile to have further deviant behavior. This is known as ‘secondary deviance’.

Further, even among adult criminals, recent jurisprudence on theories of punishment and criminology advocate a reformatory as opposed to retributive and deterrent approaches. Among children and adolescents, it is important to adopt an approach aimed at rehabilitation, reformation and reintegration into society as a productive member. Juveniles need a humane treatment aimed at reformation rather than punishment. A young boy in India who has gone through the juvenile justice system said this:

“We learn everything from adults. From people who take drugs, we learn to take drugs; from people who make bombs, we learn to make bombs. And that is what we will learn when you send us to jail. So, if you send us to jail, we will become like them.”¹³

G. EVOLUTION OF JUVENILE JUSTICE LAW IN INDIA

Historical development of juvenile justice in India can be divided into six phases through reference to the treatment of children, legislative developments, judicial Intervention and other government policies. These six phases are:

- a) prior to 1773;
- b) 1773 - 1849;
- c) 1850 – 1919;
- d) 1919 - 1950;
- e) 1950 – 2000; and
- f) 2001-2015

G1. Status of Juvenile Justice Prior to 1773

Both Hindu law (Manusmriti) and Islamic law (Sharia) prescribes for maintenance and proper upbringing of the children and it was the sole responsibility of parents to provide care and protection to the children and if the families were unable or incapable, someone from the community took care of the children. According to Islamic law if anyone found an abandoned child and felt that child would be harmed, then he was under a duty to take care of the child.¹⁴ A close examination of Manusmriti and Sharia indicate that children were prescribed different punishments for the commission of certain offences.¹⁵ For example,

¹³ From Arlene Manoharan and Swagata Raha, ‘Juveniles Need Reform Not Prison,’ *The Hindu*, 24 April 2015

¹⁴ Ved Kumari (2004), p. 57

¹⁵ Ibid

under Hindu law, if a child was found throwing filth in public, he had to clean the place while an adult had to pay the fine.¹⁶ In Muslim law, there is a specific Injunction which forbade execution of children.¹⁷ Provisions in the traditional texts show that children were treated separately and differently from adults, with a focus on special care for their survival; they were not held fully responsible for their actions as adults were.

G2. Status of Juvenile Justice 1773 - 1849

During this period, India was predominantly dominated by the East India Company which started as a trading company in 1608. After the company failed, the Crown took over the reins, through the Governor General. This was the period when the momentum in reforms started gaining pace and the affect was also visible. Colonial exploitation ruined the agrarian economy forcing the deprived class to live in slums or the city outskirts. This increased destitution and delinquency among children.¹⁸

The year 1773 was a benchmark in the Indian legal system, as the Regulating Act of 1773 granted East India Company, the power to make and enforce laws and further the Charter Act of 1833 changed the commercial status of the company, into a governing body. Between 1773 and 1850, many committees were established focusing on children in jails.

In this phase, welfare mechanism for children took different forms. Krishna Chandra Ghoshal and Jai Narayan Ghoshal approached the then Governor General for establishing homes for destitute juveniles in the major trading city of Calcutta. Similarly the first Ragged School for

¹⁶ For more details, see Muller, M.F. (1886). *The Laws of Manu*. Oxford: Clarendon Press

¹⁷ Unnithan, N. Prabha (2013). 'Crime and Justice in India'; in Kethineni Sesa & Braithwaite Jeremy (eds.), *Towards a Compliance Model: The Indian Supreme Court and the Attempted Revolution in Child Rights*. New Delhi: Sage Publications, p.306

¹⁸ Chatterjee, G. 'The Reformation of Neglected and Delinquent Children in British Raj: An Historical Overview', in *Material for National Workshop on Neglected Children*; by Prayas, Shramik Vidyapeeth and Delhi School of Social Work, New Delhi, 19-20 June 1992, p.2

vagrant and orphan children was established in 1843 at Bombay, which is now known as David Sasson Industrial School. The objective was to reform the child delinquents who were arrested, by encouraging them to work through apprenticeship and Industrial Training, which prepared the base for passing the Apprentices Act 1850. The approach adopted was largely welfare-oriented and needs-based.

G3. Status of Juvenile Justice 1850 – 1919

In 1850, the Apprentices Act was passed, to keep juveniles out of jails and subsequently, by the Report of the All India Jail Committee, 1919-1920, children were segregated from the prevalent criminal justice system.

This period saw passing of specific legislations concerning children, the first of which that provided a special status to juveniles was the Apprentices Act 1850. Children who were vagrants and committed petty offences in age group of 10-18 years were made to undergo their sentence as apprentices. The objective of the law was to channelize the energy of children and divest their minds, from criminal influence and make them work so that after reaching majority they can earn a living.¹⁹ Subsequently, the Indian Penal Code, 1860 fixed the age limitations for criminal culpability of juvenile's under Sections 82 & 83 of the Code. The said sections provided protection to children from criminal prosecution until they had developed cognitive faculties to understand the nature of their actions. The Code of Criminal Procedure 1861, and 1898, in three sections – S. 298, 399 & 562 - prescribed for separate trial for the persons below the age of 15 years and required that they should be confined in

¹⁹ Mukundan, Asha K.P (2008). *Study of the Status of the Justice Delivery System For Juveniles In Conflict With Law In Maharashtra*, Mumbai: Tata Institute for Social Sciences

reformatories rather than in adult prisons.²⁰ This changed the approach towards and treatment of juveniles from punishment to reformation.

As prison reports constantly pointed towards the change in policy and administration, noticing high rate of perpetrators and increase of juvenile offenders, especially in Pune, where the number alarmingly increased from one to sixty five between 1860-1861, the Whipping Act of 1864 was passed by the government with the aim of deterring children from committing crimes in future, by whipping them for certain crimes, which in consequence would and save the government of the investment, to establish reformatories for the juveniles.²¹

The period between 1872 and 1875, witnessed juvenile prisons running smoothly and satisfactorily in terms of health and conduct of the juvenile offenders as they were provided mechanical and scholastic education and other after care facilities while at other places the proportion of juveniles to the total imprisoned was increasing so segregation of them became a necessity.²²

This different treatment of juveniles was strengthened by The Reformatory Schools Act 1876 which provided that boys under the age of fifteen who were imprisoned or transported should be placed in the reformatories.²³ The period of incarceration was specified to be not less than three years and not be more than seven years.²⁴ The second Reformatory Schools Act of 1897 dealt specifically with the treatment and rehabilitation of juvenile delinquents in the age group of seven and fifteen years but it did not establish such places for girls.²⁵

²⁰ Clayton Hartjen & Sessa Kethineni, 1996

²¹ Sen, Satadru. (2004), *A Separate Punishment: Juvenile offenders in Colonial India*, Association of Asian Studies, 63(1), 81-104

²² Ved Kumari (2004), p. 63

²³ Saibaba, Anuradha. *Juvenile Justice: Critically Juxtaposing the Models in India and Singapore* (Working Paper Series No. 28), September 2012, Asian Law Institute.

²⁴ Clayton Hartjen & Sessa Kethineni, 1996

²⁵ Sessa Kethineni & Jeremy Braithwaite, 2013

Children of the criminal tribes received special attention after the enactment of criminal tribes (amendment) Act 1897. It provided for establishing agricultural and reformatory schools for the children of criminal tribe members in age group of four to eighteen years. The Code of Criminal Procedure of 1898 extended imprisonment at the reformatory schools for the juveniles until they completed the age of eighteen years, and then prescribed that they be placed on probation till they are twenty one.²⁶

G4. Status of Juvenile Justice 1919-1950

The Indian Jail committee was established in 1919-1920, which urged to the British government for establishing separate institutions and to have separate trials for the juveniles.²⁷ It further urged that juveniles should compulsorily be given bail in most cases and their reformation and rehabilitation should be the motive of the law.²⁸ Further, the League of Nations Declaration (discussed in further detail in Module 3) instigated Madras (1920), Bengal (1922), and Bombay (1924) in enacting the Children Acts and later the Delhi Children Act 1941, Mysore Children Act 1943, The Travancore Children Act 1945, The Cochin Children Act 1946, and the East Punjab Children Act 1946.²⁹

Although Bengal Children's Act was passed subsequently, it had a juvenile court from 1914 onwards. Madras Children's Act was the first delinquency law in India. However, it did not use the term delinquent instead defined a 'child', as anyone under the age of fourteen years, a 'young' person from fourteen to eighteen years and a 'youthful offender' under the age of eighteen years who has been convicted of offence mentioned in Indian Penal code or any

²⁶ Chakraborty, Tapan. (2002). 'Delinquency and Juvenile Justice System in India' in John A. Winterdyk (ed.), *The Juvenile Justice Systems: International Perspectives*, 2nd ed., Toronto: Canadian Scholars' Press.

²⁷ Biranchi Narayan Mishra, 1991

²⁸ Chakraborty, Tapan 2002

²⁹ Ved Kumari, 2004

other special or local laws for which an offender can be incarcerated.³⁰ One of the most significant legislations pertaining to street or vagabond children - The Vagrancy Act 1943 - was enacted and it provided for care and training for children below fourteen years living on begging or who lacked proper guardianship, or had parents who were involved in criminal habits and drinking, visiting prostitutes or were destitute.³¹

G5. Status of Juvenile Justice 1950-2000

By 1960 many states had that varied established separate systems and laws for juveniles in terms of definitions, their procedural requirements and so much so their implementation, also varied. In 1960 the Union government enacted The Children Act 1960, which was also applicable to Union Territories and was directly administered by the Union government. The Children Act 1960 was intended to serve as a model for the various state legislations, as well as became the basis for the Central law passed as Juvenile Justice Act 1986. The Supreme Court, in its judgment in *Sheela Barse's case*, played a pivotal role in triggering the passing the uniform law on juvenile justice, as it stated that children in jails are entitled to special treatment and recommended that the Parliament enact a uniform law which is applicable throughout the country.³²

Parliament invoked its power under Article 253 of Constitution of India in making the juvenile justice law in India, in conformity with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules 1985) and abided with other international obligations cast which India had ratified. These are discussed in further detail in Modules 3 & 4.

³⁰ Hartjen, A. Clayton & Kethineni, Sessa (1996). *Comparative Delinquency India and the United States*, New York & London: Garland Publishing, p. 36

³¹ The Bengal Vagrancy Act, 1943

³² *Sheela Barse & Anr. vs. Union of India & Ors.* 1986 AIR 1986 SC 1773

For the first time the Juvenile Justice Act 1986 mandated care, protection, treatment, development and rehabilitation of neglected and delinquent juveniles and for adjudication and disposition of juvenile delinquency matters throughout country. The Act formulated separated procedures for the juvenile delinquents and neglected juveniles, by establishing separate juvenile courts and juvenile welfare boards. Juvenile courts handled the offences committed by girls under the age of eighteen years and sixteen years for the boys accused of committing crime.³³

Under the 1986 law, juvenile delinquents are defined as persons below specified ages who committed certain acts that would be treated as crimes if committed by adults. These juveniles are processed through special courts following the due process of law, applied to adult offenders with an exception that these proceedings are to be held in private and be kept confidential and as far as possible be non-judicial in nature. The delinquents who are convicted could be fined or placed under supervision for a maximum of three years but they cannot be executed or imprisoned or jailed.

A major aim of the 1986 Act was to bring the domestic law in conformity with the UN Standard of 1985. However, this aim was not fully achieved, which necessitated the formulation and passage of a new law in 2000.

G6. Status of Juvenile Justice 2000-2015

The Juvenile Justice (Care and Protection of Children) Act 2000 was passed in December 2000 and came in force on April 1, 2001. This was amended in 2002 and 2006 aiming to protect, care, rehabilitate and educate the juvenile and to provide them with vocational training opportunities. A new law was enacted in 2015. This law is discussed in further detail in Module 2.

³³ Ibid

