

## A Study on Juvenile Justice Board and Juvenile Homes

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### ABSTRACT:

Juveniles accused of a crime or detained for a crime are brought before the JJB under the Juvenile Justice (Care and Protection of Children) Act 2000 (amended in 2006). Under this act and provisions of the Criminal Code Procedure children are not to be taken to a regular criminal court. The purpose of a separate court is that its purpose is socio-legal rehabilitation and reformation not punishment. The aim is to hold a child culpable for their criminal activity, not through punishment, but counselling the child to understand their actions and persuade them away from criminal activities in the future. The JJB consists of a metropolitan magistrate or a judicial magistrate of the first class and two social workers, at least one of whom should be a woman. All three people form a bench that are to function as a unit. Though they have different roles they are required to coordinate for the best interest of the child. When a child has been found guilty of a crime the social workers are vital to deciding the best course of action for the rehabilitation of that child. JJB are meant to resolve cases within a four month period. Backlog of cases can be addressed with an increased number of sittings as was the case in the Mumbai JJB. A child is usually brought before the JJB be a police officer or person from the Special Juvenile Police Unit (SJPU) (previously called JAPU). Any organisation or person who brings a child before the court should inform their local police units first. The police have 24 hours to produce a child before the court once he is arrested. The person or police officer who brings the child before the JJB is required to complete a report of the arrest/detainment. Once the child has been brought before the JJB he/she is registered into the closest Observation Home.

**Keyword:** juvenilising, identification, arrested, organisation, superintendent.

### I. INTRODUCTION:

The paper is an attempt to give an account upon the ineffectiveness of Juvenile Justice Board to examine and determine the juveniles in conflict with law in the age group of 16-18, involved in adult heinous offences as provided in the Juvenile Justice (Care and protection of Children) Act, 2015.

This Act replaced the Juvenile Justice (Care and Protection of Children) Act, 2000. The Act of 2015 allows Juvenile Justice Board, which would include psychologists and sociologists, to decide whether a juvenile in the age group of 16-18 should be tried as an adult or not. This Act, for the first time ever, has given the authority to treat the juveniles of certain age group as adults and to punish them as adults in the adult criminal justice system.

Such a major change has been taken due to the raucous that has happened after the attack of 2012 Delhi gang rape where one of the accused, who was 17 years has been sentenced to 3 years in a reform home. Due to this, there were lots of disturbances in the society where the public created a huge fuss by criticizing such law which allows an accused to escape huge punishment though he was only few months away from being 18.

Such events led to the passing of the Act of 2015. The Act gives, "The board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence...for such an assessment, the board may take the assistance of experienced psychologists or psychosocial workers or other experts." By making this provision, huge discretion has been given in the hands of few for the most sensitive issue. In this paper, the author makes an attempt to give all the psychological intricacies that explain the greatest possibility of

reforming even the juveniles in the age group of 16-18. This paper will make an account on why present conditions of juvenile justice administration is incapable of making such a move that will defeat the very purpose of such administration, which is the rehabilitation and reintegration of juveniles into the mainstream of society.

Thus, it is very clear that the juveniles have to be administered in such a way that it caters to achieve the only purpose that has been provided in the Act of 2015. In this paper, the amendments brought by this Act which provide that the juveniles in the age group of 16-18 to be tried as adults for heinous offences after the examination made by the juvenile justice board that defeat the very purpose of Juvenile Justice Administration will be criticized by taking the contentions of psycho social possibilities of reformation of such juveniles, and of improper juvenile justice boards and homes to decide the fate of juveniles committing such offences. The paper attempts to provide that in the light of present ineffectiveness of juvenile justice boards, giving such huge discretion in their hands to decide whether a juvenile has adult mind or child mind results in the increase rate of recidivism, as the growing rates of accountability within the juvenile offender has a direct correlative effect on the rates of recidivism. In cases, where juveniles commit heinous offences, sentences harsher than necessary may be adopted. But, no steps or punishments should be taken which completely curbs the rehabilitative scope of juveniles. Thus, India should attempt to adopt a rehabilitative model incorporating restorative principles as a complement and not a substitute for rehabilitation. Whereas, the discretion conferred on the Juvenile Justice board to decide that juveniles be tried as adults take away the rehabilitation scope completely. Thus, the rehabilitative possibilities of such juveniles who commit heinous crimes and the present inability of juvenile boards will be enunciated. Aim of this study is to analysis about juvenile justice board and juvenile homes.

## II. LITERATURE REVIEW:

1. **K.C.Wheare:** The framers of the Indian Constitution wanted to built a strong united India. She has adopted federalism to actualize and uphold the values of national unity, cultural diversity, democracy, regional autonomy and rapid socio-economic transformation through collective efforts
2. **Sir. Ivor. Jennings:** The imperial hegemony was imposed over this vast country, and

centralized power was the only way for the imperial control. There were no serious suggestions to reconstruct the government of India on federal model till the end of First World War. The Sepoys Mutiny of 1857 was also responsible for the political and administrative centralization of the British government.

3. **D. Palmer:** The process of decentralization of powers appeared on the Indian map during the Montagu-Chelmsford Reforms of 1919. These reforms expressed the federal idea in India. This was in response to the Declaration of 20th August 1917, which intended to establish a little responsible government. This report indicated federalism as a form of government in future.
4. **K.M.Munshi:** a well-known British authority on federalism, says, "the Constitution is quasi-federal,"<sup>30</sup> and classifies India as "a unitary state with subsidiary federal principles rather than a federal state with subsidiary unitary principles.
5. **W.H.Morris Jones:** held the view that "Indian federalism was a kind of cooperative federalism where bargaining took place between the centre and the states, but ultimately a solution came out and both agreed to co-operate."
6. **P.B.Gajendragadkar:** Thus, numerous scholars, reflecting on the vast powers left with the Government of India and the subordinate role of states, and also the crucial powers of the union to practically annihilate an existing state, doubt whether India is a federation at all. Some have called it a 'pseudo - federation'. Others feel that it would be more appropriate to call it a 'quasi-federation'.
7. **Benjamin N. Schoenfeld:** The division of powers between two levels of governments is an essential feature of federalism. Federalism means the distribution of powers of the state between the central and the state governments. The basis of such distribution of power is that in matters of national importance, in which a uniform policy is desirable in the interest of the units, authority is entrusted to the centre and matters of local concern remain with the states.
8. **P.K.Tripathi:** In a Federation there should be clear division of powers so that the units and the centre are required to enact and legislate within their sphere of activity and none violates its limits and tries to encroach upon

the functions of others. The Seventh schedule contains three legislative lists which enumerate subjects of administration viz., Union, State and Concurrent lists.

**Methodology:**

For the purpose of the study non doctrinal type (Empirical) of research is used. The method of sampling used is personal survey. The total amount of sample size been collected samples out which the sum of 50 sample were personally

collected by me. The independent variables that have been used are age, gender and educational qualification. The dependent variables used are Indian constitution is one of the most the course in professional courses. The statistical tool used is chi-square.

**Analysis and discussion:**

**5.Gender \* 11.Do you agree that the children between the age of 16 to 18 can be treat as an adult by JJ board?**

**Crosstab**  
Count

		11.Do you agree that the children between the age of 16 to 18 can be treat as an adult by JJ board?			
		yes	no	may be	dont know
5.Gender	male	142	329	142	47
	female	134	127	87	68
	not preferto say	46	0	41	137
Total		322	456	270	252

**Crosstab**  
Count

		Total
5.Gender	male	660
	female	416
	not preferto say	224
Total		1300

**Hypothesis :**

**H0 :** There is no significant association between the term juvenile and its age category among people .

**H1 :** There is a significant association between the term juvenile and its age category among people .

**Chi-Square Tests**

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	391.521 <sup>a</sup>	6	.000
Likelihood Ratio	407.520	6	.000
Linear-by-Linear Association	130.162	1	.000
N of Valid Cases	1300		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 43.42.

**Symmetric Measures**

		Value	Asymptotic Standard Error <sup>a</sup>	Approximate T <sup>b</sup>	Approximate Significance
Interval by Interval	Pearson's R	.317	.028	12.023	.000 <sup>c</sup>
Ordinal by Ordinal	Spearman Correlation	.255	.030	9.500	.000 <sup>c</sup>
N of Valid Cases		1300			

- a. Not assuming the null hypothesis.
- b. Using the asymptotic standard error assuming the null hypothesis.
- c. Based on normal approximation.

**III. DISCUSSION :**

The juvenile justice board made the way to ensure that the children are brought to a better way to follow the law and order to bring the moral in the them and to the society. This has been made into very strict line now a day to bring the next generation to hope of better one. This have been the main key to the board of juvenile.

To make the life of the children in juvenile home the betterment scheme are brought to develop the inner talent and skill. This also made the long way of looking forward for the children's life settlement. This were the changes made to bring the changes by the board and home of juvenile justice.

**5.Gender \* 12.Whether Metropolitan or Judicial magistrate should have a special knowledge about child psychology?**

**Crosstab**  
Count

		12.Whether Metropolitan or Judicial magistrate should have a special knowledge about child psychology?			
		yes	no	may be	dont know
5.Gender	male	192	110	330	28
	female	158	51	154	53
	not preferto say	28	82	73	41
Total		378	243	557	122

**Crosstab**  
Count

		Total
5.Gender	male	660
	female	416
	not preferto say	224
Total		1300

**Hypothesis :**

**H0 :** There is no significant association between the term juvenile psychology and among gender .

**H1 :** There is a significant association between the term juvenile psychology and among gender .

**Chi-Square Tests**

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	140.885 <sup>a</sup>	6	.000
Likelihood Ratio	138.952	6	.000

Linear-by-Linear Association	7.678	1	.006
N of Valid Cases	1300		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 21.02.

### Symmetric Measures

	Value	Asymptotic Standard Error <sup>a</sup>	Approximate T <sup>b</sup>	Approximate Significance
Interval by Interval	Pearson's R .077	.026	2.778	.006 <sup>c</sup>
Ordinal by Ordinal	Spearman Correlation .056	.027	2.025	.043 <sup>c</sup>
N of Valid Cases	1300			

a. Not assuming the null hypothesis.

b. Using the asymptotic standard error assuming the null hypothesis.

c. Based on normal approximation.

### IV. DISCUSSION :

The juvenile justice board made the way to ensure that the children are brought to a better way to follow the law and order to bring the moral in the them and to the society. This has been made into very strict line now a day to bring the next generation to hope of better one. This have been the main key to the board of juvenile.

To make the life of the children in juvenile home the betterment scheme are brought to develop the inner talent and skill. This also made the long way of looking forward for the children's life settlement. This were the changes made to bring the changes by the board and home of juvenile justice.

### V. CONCLUSION:

The profile of juveniles in India reveals that majority of them are living in conditions of want, deprived of basic survival, subsistence and developmental opportunities. High rates of child mortality, school drop-outs, child labour, handicapped children and steadily increasing problem of juvenile delinquency are indicators of the need for intervention by the state.

In India, the state has accepted the responsibility of providing care and protection to juvenile in conflict with law and child in need of care and protection through the juvenile justice system. However, the studies of the functioning of its various organs have shown that they are malfunctioning.

This thesis amongst others began with the hypothesis that malfunctioning of various organs of the juvenile justice system in India has been caused

by an unsystematic approach to the JJS. The examination of the profile of the juvenile, historical developments, basic structure and its implementation, assessment of JJS in Delhi, role of NGO's, judicial process and major case contain innumerable and incontrovertible evidence of a fragmented approach to the JJS which resulted in the malfunctioning of its various organs.

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