CHAPTER–VI

CONCLUSION AND SUGGESTIONS

Kofi A. Annan, the Secretary, general of UN observed that 'there is no trust more sacred than the one the world holds with children, there is no duty more important than ensuring their rights are respected and their welfare is protect....' Children are recognized world wide as supremely assets of the Nation. The government of India also through its National Policy for Children has expressed that their nurture and solicitude are our responsibility. Equal opportunities for development to all children during the period of growth should be our aim, for this would serve our larger purpose of reducing inequality and ensuring social justice. Children, because of their supremely importance ought to have been the subject of prime focus of development planning, research, and welfare in India but unfortunately, they still are a 'almost forgotten' lot and required attention has not been paid to this important issue so far. Despite the Constitutional vision of a healthy and happy child protected against abuse and exploitation, and a National Policy for Children, for the majority of children in India it is still a dream and 'the future of the country' continues to live without a cared, protected and meaningful childhood. The juvenile justice system as conceived by legislation aims at providing care, protection, treatment, development, and rehabilitation of delinquent and neglected juvenile.

India is a signatory to UN Declaration on The Rights of the Child, 1959 which defined and recognized various Rights of the children namely:

The right to health and care, the right to protection from abuse, the right to protection from exploitation, right to protection from neglect, right to information, right to expression and right to nutrition etc have been defined as basic rights of children by the Convention on the Rights of the child.

India adopted a National Policy on Children in 1974 for achieving the

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above said rights for its children which reaffirmed the Constitutional provisions for adequate service to children both before and after birth and through the period of growth to ensure their full physical, mental and social development. The Government of India with a view to taking action to review the National and State legislations and to bring them in the line with the provisions of the Convention, has developed appropriate monitoring procedures for assessing programmes in implementing the Convention on the Rights of the child. India is also a party and signatory to the world Declaration on survival, protection and development of children, 1990 and for the purpose of fulfilling its commitment made at the world summit a national plan of action for children has been formulated under the Ministry of Human Resource Development, keeping in mind the needs, rights and aspirations of approximately 300 million children in the country. According to a report, 147 million children live in kutcha houses, 72 million children in India between 5 and 14 years do not have access to basic education. A girl child is the worst victim as she is often neglected and is discriminated against because of the preference of a boy child.2

In India scene for the children has changed a lot and their problems and related issues have been given attention and are being discussed at various forums. The question of providing proper protection and care to the children of such a big number is a big challenge. A good number of our children on account of socio-economic reasons have adding themselves in the list of delinquent child. Present day youth especially children are under tremendous social pressure due to new changing social perceptions. A report of UNICEF in 2005 on the state of world's children under the title “Child under Threat”, speaking regarding India, mentioned that millions of Indian children are equally deprived their right of survival, health, nutrition, education and safe drinking water. This is what is happening to the most of the young children who if properly taken care of, would shine the future of the country. The cache statements "Children are supremely

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2 http Smile Foundation Organisation Child Right HTM Access.
important national asset\(^3\) and the greatest gift of humanity\(^4\) in the present scenario and on ground level realities appear hollow.

The children in India require double sided protection. At the one hand they need to be provided with the basic necessities for their overall development making them physically strong, mentally alert, academically brilliant by affording them, irrespective of their sex, family atmosphere for proper growing and grooming of the child. The other side requires prevention and treatment of a child who is termed to be a delinquent. The action is required on two fronts. Firstly, by preventing and arresting the increase in number of the juvenile delinquency, and secondly by giving the delinquent child or a 'juvenile in conflict with law' proper opportunity to reform himself and join the mainstream of the society.

Juvenile delinquency is difficult to be defined as to its behavioural connotations. There is difference of opinion given by the various authorities in the field and also in the type of offences and behaviour which is included in the juvenile delinquency. There, is however, an enhanced awareness that the juvenile delinquency constitutes a problem of many dimensions that must be studied by variety of approaches. Some of the definitions have made the concept thorough wide to incorporate all problems of juvenile misbehaviour while others have focused only on behaviour which constitutes a criminal offence specifically prohibited by statutory definitions and that can be brought firmly before the court, like disorderly conduct, vagrancy, conspiracy, attempt to violate statute. There is another opinion also which says that confusion has been created between delinquency and other social, emotional and behavioural problems of children and a related confusion is regarding the appropriate function and method of the court, now Boards dealing with the juvenile offenders. Whatever be the definitions provided by the various authorities and scholars on the subject the fact remains that the children being in the centre-stage, the growth and change of human values and to look after the well being of the children is most important. Today's delinquent will be a criminal tomorrow.

\(^3\) Laxmikant Pandey \textit{v.s.} Union of India, 1984(2) SC 244, 249  
\(^4\) Bandhua Mukti Morcha \textit{v.s.} Union of India (1997) 10 SC 551-553
Thus, there is need to give specific importance to children in society. Importance of a child is well recognized since ages. Children are valued assets of a nation. Importance of children can well be imagined and appreciated. Winston Churchill recognised their importance saying that there is no finer investment for any community than putting milk into babies. This appeal to the people everywhere, this fundamental faith in juvenile justice, this reorganization of the worth of the infants born and unborn, is the beginning of juvenile justice says Justice Krishna Iyar.5 “Child is the father of man” and in order to enable fathering of a valiant and vibrant man, the child must be groomed well in the formative years of his life. He must receive education; acquire knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters so far as the society is concerned.6 Bandhua Mukti Morcha’s7 case recognised and highlighted importance of the child by comparing the children to the lights in society. If children are deprived of their childhood socially, economically, mentally, the nation's get deprived of the potential human resources for social progress, economic empowerment and peace and order, the social stability and good citizenry.

By controlling juvenile delinquency we shall be controlling and checking the future criminals. It can no more be disputed and is an open admitted fact that tendency among young people to commit crime and indulge in anti social activities is increasing.8 Childhood, a universal human experience has vital stakes. The National Policy for Children has rightly observed that the Nation's children are supremely important asset. The future, development and stability of a society depend on the quality of its children. Child welfare is of supreme importance to mankind. The child is an important social unit and is entitled to all that makes for healthy living, sufficient recreation, schooling adopted to his natural living methods, intelligent home care and the right to develop his abilities

7 Bandhua Mukti Morcha vs. Union of India, AIR 1997 SC 2218, page 2220.
to their fullest extent. Total well-being of the child includes not only the care of maladjustment and delinquent children but also the development of child physical, mental, emotional and social faculties. Juvenile delinquency creates hurdles in the development of child.

Act of delinquency may include:

1. Running away from home without the permission of parents.
2. Habitual behavior beyond the control of parents.
3. Spending time idly beyond limits
4. Use of vulgar languages
5. Wandering about rail roads, streets market places
6. Visiting gambling centre
7. Committing sexual offences
8. Shop-lifting
9. Stealing etc.

In recent years, juvenile delinquency has emerged as one of the most important aspect of the subject matter of criminology. An urge for an objective appraisal of the problem and the development of the new techniques is also being felt. Delinquent behaviour has assumed serious forms among the juveniles, which is a sign of sick society. The disorder and destruction due to deviant behaviour, a worldwide phenomenon, is assuming alarming proportions in social organizations and is awakening call to those who are either in its grip or are likely to get struck.

Juvenile delinquency is an integral part of criminology. The two cannot be separated since one of the reasons for crime and its continuance into adult life is the ineffective control and treatment of juveniles. Juvenile delinquency is a big breeding centre of criminals. Juvenile delinquency, as a legal concept is of recent origin. 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 abandon. Originally, the word had an objective meaning as it referred to parents

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who neglected and abandoned their children. In present day, it is used and applied
to those children who indulge in wrongful and harmful activities.

**Definition of Juvenile**

Juvenile can be termed, defined and referred as a child who has not
attained a certain age at which he, like an adult person under the law of the land,
can be held liable for his criminal acts. The juvenile is a child who is alleged to
have committed /violated some law which declares the act or omission on the part
of the child as an offence. Juvenile and minor in legal terms are used in different
context. Juvenile is used when reference is made to a young criminal offenders
and minor relates to legal capacity or majority.\(^{10}\) For a more clear meaning resort
can profitably be made to some other sources.

Unlike an adult person a Juvenile, having not attained prescribed age,
cannot be held liable for his criminal act. The age criteria for being a juvenile vary
from country to country and state to state. In ancient India, a parent was
supposed not to punish a child who is under five years of age for any offence. As
per the law then prevailing a children of such tender age should be nursed and
educated with love and affection only. After the age of five, punishment may be
given in some suitable form such as physical chastisement or rebuke by the
parents, towards the later half of the childhood, punishment should be gradually
withdrawn and replaced by advice. From the age of sixteen upwards sons and
daughters should be treated as friends by the parents.

**Definition of Delinquency**

Any act or conduct of a juvenile which is socially undesirable can be
defined as an act of Delinquency. Juvenile delinquency generally means the
failure of children to meet certain obligations expected of them by the society.
Whether a particular act or conduct of the child would be deviant or not will
depend on various factors and vary in different States, Cities and also time to
time. The juvenile delinquent has even been defined as “a child trying to act like
a grown up”. The juvenile delinquency is expression of unsatisfied desires and

\(^{10}\) See the Black Dictionary of Law.
urges. For a delinquent, his deviant act is a normal response to his inner desire. Like a non delinquent a delinquent is also conditioned by various attending and prevailing circumstances around him.

A liberal interpretation to the term 'delinquency' is given by the sociological thinkers. This view is well expressed by the definition given by Clyde B. Vedder who says, 'juvenile delinquency refers to the anti-social acts of children and of young people under age. Such acts are either specifically forbidden by law or may be lawfully interpreted as constituting delinquency, or as requiring some form of official action.

The eschatological meaning of the word 'Delinquency' is wrong doing'. Juvenile Delinquency is a Legal term that was first defined in 1889 when Illinois passed the first law on Juvenile Delinquency: Since than each state has passed delinquency laws. In U.S. the laws were passed for the purpose of changing the concepts of Delinquency, which have led to changes in some of states. The Definition of delinquency includes conduct, which violates the law only when committed by children e.g. truancy, ungovernable behavior and running away.

According to the legalistic view delinquency is what the law says it is. A child is delinquent only when so adjudged by a juvenile court, following a formal complaint. This view point is based on the Classical theory of crime which stresses the rigid application of law to all offenders, as a safeguard against arbitrary and tyrannical exercise of powers by political and administrative authorities. Consistent with the doctrine of 'justice under the law' the English interprets delinquency in this narrow sense.

Classification of Juvenile Delinquency

Different classifications of the juvenile delinquency and delinquents have been given by various authors. A few important classifications are noted below. Hirsh delineated the following kinds of juvenile offences:

(1) Incorrigibility, which includes keeping late hours, disobedience,
and so on.

(2) Truancy, which can be from home or school.

(3) Destruction of property, which includes both public and private property.

(4) Violence which is perpetrated against the community by using such means as knives and guns.

(5) Sex offenses which can range from homosexual activity to criminal assault and rape.

Eaton and Polk\textsuperscript{13} classified the delinquents by the following types of offenses they have been involved in:

(1) Minor violations which include disorderly conduct and minor traffic violations.

(2) Property violations which include all property thefts except automobiles.

(3) Major traffic violations which include automobile theft and drunk driving and any other offense that would involve an automobile.

(4) Human addiction which includes sex offenses as well as alcohol and drug addiction.

(5) Bodily harm which includes homicide offenses that involve sexual deviation, such as rape, and generally, all other acts of violence against a person.

Kvaraceus\textsuperscript{14} classifies youngsters who become delinquent in relation to three major variables:

(1) The extent to which the individual engages in delinquent behavior.

(2) The degree of demonstrable emotional pathology.

(3) The individual's social class.

Different theories of Juvenile Delinquency

There are many theories of juvenile delinquency. Some are as under:-


\textsuperscript{14} Kvaraceus, W. C. and Miller, W.B. Delinquent Behaviour; Culture and The Individual. Washington; National Education Association, 1959.
(i) Biogenic Theory,
(ii) Psychogenic Theory,
(iii) Psychoanalytical and Psychiatric Theory,
(iv) Medico-Biological Theory,
(v) The classical Theory,
(vi) Multi-causal Theory

No one factor is the sole cause of delinquency. It is a result of the interaction between the individual and his immediate and economic factors like poverty, slums etc. The natural factors are biological, mental and emotional. Geography and climatic conditions are indirect contributors to delinquency, According to B.K. Bhattacharya,15 "there is much to do... to remove abject poverty, to mend broken and disorganized homes, to abolish slums, with their carcinogenic situation and to alleviate miseries of the millions of refugees.

There are various causes in juvenile delinquency. Juvenile delinquency takes place in various forms and very in degree, frequency, duration and seriousness and involves different forms of specialization like drug addiction, sex offences, predatory acts etc.

However unless causes of delinquency are known and identified the problem of delinquency cannot be prevented. There is no single cause of Juvenile delinquency but there are many and varied causes. Basically, causes of Juvenile delinquency are of three types.

- Biological
- Socio Environmental
- Psychological, Physiological or personal

Biological Causes include ocular Ailments, Nose and throat problem, Hearing Problem, Speech Problem, Enuresis, Irritation, Headache, Excessive strength and Hypoglycemia.

Socio-Environmental causes may include causes like Mobility, Cultural conflicts, Family background, Family Structure, Broken Homes, Child Birth

15 Seminar, supra note 8 at p.97.
Order in the Family, Family Size and Type, Parent-Child Relationship, Behaviour of Step Parents, Behaviour of alcoholic parents, Excessive punishment, Constant Quarrel, Exploitation of Children by their parents, Neighborhood, Socio-economic condition, Alcohol/Intoxication, Peer Group, Nature of Society, The socio-cultural condition, Cinema, Role of Press, Cheap Literature, Physical Standards, Mental make up, Heredity,

Physiological and personal causes are School Factors, Drug addiction, Overcrowding, Bad Company, Adolescent instability and impulses, Early sex experiences, Mental conflicts, Excessive social suggestibility, Love of adventure, Motion pictures, School dissatisfaction, Poor recreation, Street life, Vocational dissatisfaction, Sudden impulse, Physical condition etc.¹⁶

A few other causes of delinquency¹⁷ may be mentioned as under:-

1. Bad Company
2. Adolescent instability and impulses
3. Early sex experiences
4. Mental conflicts
5. Excessive social suggestibility
6. Love of adventure
7. Motion pictures
8. School dissatisfaction
9. Poor recreation
10. Street life
11. Vocational dissatisfaction
12. Sudden impulse
13. Physical condition

Prevention of Juvenile Delinquency

There are various programmes and strategies which may be undertaken to control and prevent juvenile delinquency. Broadly the programmes can be categorised under two heads :-

(i) Individual Programme

(ii) Environmental programme

(i) Individual Programme consists of Clinical programme, Educational Programme, Mental Hygiene, Parent education, Recreational programmes and Removal of inferiority complex etc.

(ii) Environmental programme consists of Community Programmes, Publicity, Parental love and affection and Family Environment etc.

Police has also important role to play to control juvenile delinquency. However, law and law enforcement machineries has a major role to play to control delinquency in the society. The basic or main function of the police is to enforce the laws. However, the police has a vast role to play in controlling and preventing the crime by the juvenile offenders. For appreciating the role of the police as preventive force a deep scrutiny of police working with special reference to the juvenile delinquents has to be made. The police administration requires a new vision and approach towards the children committing offence. For effectively dealing with the problem of juvenile delinquency a Special Juvenile Aid Police Wing is required which should have specially trained police officer and officials. These police personnel should undergo a special Training Programme regarding working with the children and should be sensitised towards their special needs.

There are following major areas of police dealing with Juvenile:

Discovery, Investigation of Delinquency, Case disposition, Protection of juveniles, and Delinquency prevention. All these aspects have been discussed in detail in Chapter Second of the study.

To have a better understanding of the present Juvenile Justice system it is better to trace out the history of Juvenile Justice System. The history of the Juvenile Justice System in India has been divided into five periods by reference to legislative or other landmark developments, namely:

(i) prior to 1773;
(ii) 1773-1850;
(iii) 1850-1918;
(iv) 1919-50; and
(v) Post-1950.

The year 1773 marked a historical break in the Indian legal system as the Regulating Act of 1773 granted to the East India Company the powers of making laws and enforcing them on a very restricted scale. The basic principles underlying the Juvenile Justice System of other countries had also been taken into account while formulating the law relating to juvenile justice system in India. The report of the Indian Jail Committee 1919-20 is one of the most significant development in the history of the juvenile justice system in India. The Jail Committee noted that the prison administration should take essential steps for the moral or intellectual improvement and reformation of the juvenile prisoners. However, the pace of legal development was not satisfactory upto 1950. Various official and non-official developments have contributed to the development of juvenile justice system since 1950. The Central Children Act, 1960 was an important peace of legislation passed by the Parliament which served as a model legislation for various states.

In Sheela Barse v. Union of India\(^{18}\), the landmark judgment delivered by the Supreme Court in which it was emphasised that a central act is needed for ensuring social, economic and psychological rehabilitation of the children who are either accused of offences or are abandoned or destitute or lost. It further stressed the need not only of having a legislation, but to enforce it with all earnestness and plea like financial constraints would not serve our purpose in building up of powerful human resources who are to take the reins of nation in its forward march. The Supreme Court also questioned the non enforcement of the Children Acts, it directed the states to ensure that the Act is brought into force and implemented in accordance with the provisions contained therein.

The lacunae and shortcomings which came to be identified in the Act of 1960 were sought to be cured by the Amendment in the Act. So the Children Amendment Act, 1978 was passed which made some changes as under:

\(^{18}\) AIR 1986 S.C. 1175
(a) The definition of the term 'neglected child' was widened by including the cases where the parents are not able to exercise proper care and control over the child. Previously the definition referred to those parents only who were unfit to exercise care and control over the children. It must, however, be said that though the provision is sound in theoretical terms, there may be practical difficulties in the implementation of this policy having regard to the extreme poverty among large sections of the country's population. Probably there may be millions of children who may need the benefits of this provision.

(b) There were two kinds of authorities i.e. juvenile court and child welfare boards, to deal with delinquent and neglected children respectively under the Act of 1960. Now sometimes delinquency may be nothing but the consequence of parents' negligence and a 'delinquent' child in such a case must be sent to the welfare board rather than to the juvenile court. Such a course was not permissible under the Act of 1960. The Amending Act removed this difficulty. Now it was possible to achieve some mobility between the two agencies. A child could now be sent from the juvenile court to the welfare board and vice versa.

During the pendency of any enquiry under the Act, the child was to be kept in an observation home established under Section 11 of the Act, 1960. The problem with these observation homes is that they are of an institutional kind i.e. quite official and impersonal in their approach and environment. Beside the observation home, a child could not be sent to any other place of safety which may be better in terms of individual attention and personal warmth.

(d) The children's courts constituted under Section 5 of the Act of 1960 had only Magistrates without any social worker; a deficiency in view of the correctional philosophy of the court. This was taken care of by the amending Act.19

In India, a drastic change prohibiting imprisonment of children under any circumstance was brought by The Children Act, 1960. It also introduced a sex-discriminatory definition of child. It provided for two separate bodies to deal with

19 Towards Delinquency Control, op.cit., p.45.
the delinquent and neglected children which were called children court and child welfare board respectively. This Act introduced the system of three-tier institutions, namely, an observation home for receiving children during the pendency of their proceedings, a children’s home for housing neglected children, and a special school for delinquent children.

The other states which enacted their Children Acts following the Children Act, 1960 had provisions similar to it. The stage for bringing about uniformity in the law relating to juvenile justice all over the country was set with the adoption by the UN General Assembly of the Beijing Rules in 1985, recommendation for a uniform law in the 69th Report of the Committee on Subordinate Legislation tabled in Parliament on 12 May 1986 and the Supreme Court's suggestion in 1986 for initiation of parliamentary legislation on the subject.

The Juvenile Justice Act, 1986 was passed and brought it into force on 2 October 1987 throughout the whole of India except the state of Jammu and Kashmir. It virtually brought about a uniform system of juvenile justice in the whole country. In addition, the JJA provided for prohibition of confinement of children in police lock-up or jail, separate institutions for the processing, treatment, and rehabilitation of the neglected and delinquent children, a wide range of disposition alternatives, to family/community-based placement, and a vigorous involvement of voluntary agencies at various stages of the juvenile justice process.

A number of the states failed to set up the basic infrastructure consisting of juvenile welfare boards, juvenile courts, observation homes, juvenile homes, special homes and after care homes for the children who were in the centre stage of the Act. Despite mandatory requirements, the minimum standards for institutional care in terms of accommodation, maintenance, education, vocational training, or rehabilitation, were not spelt out in most of the states. There was no definite policy towards the manpower development of juvenile justice. One enactment has been followed by another with certain changes necessitated to

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20 The provisions of the Jammu and Kashmir Children Act 1970, in force in Jammu and Kashmir, were more or less similar in approach to the JJA.
remove certain unavoidable problems faced in the Administration of Justice. Enactments have not incorporated principles of law laid down by High Courts. The gap between rhetoric and reality further widened with the ratification of the Convention on the Rights of the Child. A number of national consultations were held concerning juvenile justice administration during 1999-2000 to improve the existing unsatisfactory state of affairs.

In this background a committee was appointed under the chairmanship of Justice Krishna Iyer to prepare a Children Code. This committee prepared the Children’s Code Bill 2000 and presented it to the Prime Minister Atal Bihari Vajpayee on 14 November 2000. He assured that the Children’s Code Bill 2000 would be a valuable input: The Juvenile Justice (Care and Protection of Children) Bill 2000 was introduced in the Lok Sabha and Rajya Sabha without any mention of the Children’s Code Bill 2000. It introduced a wider range of community placement options in terms of adoption, foster homes, shelter homes, and sponsorship while imposing fine on the parents and providing counselling to the family of a child in conflict with law. The JJ (C&P) Act 2000 recognizes the family of the child as a unit to deal with while dealing with children. However, the good intentions stand behind this good and beneficial legislation have been marred by loose and inconsistent drafting.

The Juvenile Justice (Care and Protection of Children) Act, 2000 is meant for the care, protection, treatment, development and rehabilitation of delinquent juvenile and for the adjudication of certain matters relating to and disposition of delinquent juveniles. The Juvenile Justice (Care and Protection of Children) Act, 2000 which covered children upto 18 years, provides for a uniform legal

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21 Current Issues in Juvenile Justice Administration; paper presented at the National Consultation on Juvenile Justice held at the National Law School of India University, Bangalore during 11—13 February 1999.

22 Namely, National Consultations Meet on the Juvenile Justice System and the Rights of Child held by the National Institute of Public Cooperation and Child Development, Delhi, 20-1 January 1999; National Consultations on Juvenile Justice, National Law School of India University, Bangalore on 11-13 February 1999; National Seminar on juvenile Justice held by Butterflies, Delhi, 8-9 April 1999; National Consultations on Juvenile Homes held by Prayas Institute for Juvenile Justice, Delhi, 29-30 July 1999. There were also regional consultations held in Madras, Hyderabad, and Patna.
framework of juvenile justice across the country. It seeks to ensure that no child in any circumstance is lodged in jail or lock up. The Act took care for providing machinery and infrastructure required for care protection development and rehabilitation of children. There is a fine distinction between the two bodies to deal with the children. Juvenile Justice Boards deal with 'juvenile in conflict with law' and Child Welfare Committees are constituted for the care and protection and treatment of child in need of care and protection. The J.J. Act of 2000 enables the competent authority a wide range of disposition alternative with preference to family and community based placement. The Parliament in enacting this Act considered a progressive law in accordance with international principles, such as United Nations Conventions on the Rights of the child to which India became a signatory in 1992. The United Nations Rules provides for the protection of the juveniles deprived of their liberty and all other relevant international instruments.

The Juvenile Justice (C&P) Act, 2000 in order to give maximum benefit to the juveniles should be implemented as a whole. Co-operation by various agencies active in and responsible for its proper implementation is also necessary for providing care, protection and development of all the children as envisaged in the Act. The competent authority can protect the best interest of the children if the children's in need of care and protection is taken seriously and various communities and other institutions and organizations meant to cater to the need of such category of children are actually and sincerely functioning in sufficient numbers.

The links between the JJS and other welfare services run by the State or voluntary organizations needs to be established and strengthened. Juvenile delinquency has been identified as failure of the society to provide appropriate socializing instrument to new generation of children captured in the breakdown of traditional institutions like family and community slackening of community tie under the impact of increasing mobility and urbanization and free flow of money. It is also very pertinent to mention that the juvenile being of tender age are more
likely to be exposed to the world of the criminals and are required to be protected. It can only be possible by segregation of the juvenile from the hardcore criminal who are postgraduate in the criminal atmosphere.

The Juvenile Justice (Care and Protection of Children) Act, 2000 brought about certain modification. Juvenile Justice Board chaired by Principal Magistrate along with two members has been constituted with the purpose to protect interest of the juvenile. In this process, the community participation is also introduced. Special provision has been made to grant Bail to the juvenile in order to avoid any hardship to them. The juveniles being of tender age are more exposed to suffer mental, physical and sexual agony. The practical problems faced in the implementation of the juvenile justice system by the various agencies are required to be sorted out with the amicable and mutual coordination of voluntary organization and district administration. Judiciary can also play a role model in its implementation.

The children being the most important assets of the nation their protection must be the foremost duty of the State. The state has undertaken this responsibility being a welfare state and this responsibility cannot be shifted to any other organization. It is very important to mention here that the salient feature of Juvenile Justice (Care and Protection of Children) Act, 2000 as already discussed, makes it crystal clear that the children shall not be penalized and kept in jail. These provisions are required to be looked into from many angles. First is whether keeping in view the juvenility of the offender no penal action should be initiated against him or whether it will be suffice to bring him out of the world of crime or whether he should be put in the custody and care of some voluntary organization so that his/her mental attitude and aptitude may be changed.

There are no major lacunae in the Juvenile Justice (Care and Protection of Children) Act, 2000 enacted by the Parliament but it is required to be implemented in letters and spirit. However, some changes in the Act are required to be made for benefit of juveniles.

The Juvenile Justice (Care and Protection of Children) Act, 2000 has made
provision for constitution of Juvenile Justice Board for exclusively dealing with the delinquent juvenile with the purpose to protect delinquent juvenile’s interest and it is specifically laid down that no person who does not have special knowledge of child psychology and child welfare shall be appointed as a Magistrate or a member of the Juvenile Justice Board. As already pointed out that there should be at least one Juvenile Court and Juvenile Justice Board in each district. With the passage of time the government has started taking serious interest in the welfare of delinquent juvenile.

Apart from it the Act provides for the Child Welfare Committee having five members who function as magistrates for rehabilitation of children in need of care and protection. As aftercare programme the Act envisages homes for juveniles. A fit person, fit institution and a place of safety are persons, institution, places found fit or safe, as the case may be, by the competent authority. The Sinha Committee in 1968 had recommended: “as an immediate measure, during the fourth plan period, one Remand Home should be set up in each district with a minimum capacity of twenty-five children, two Children’s Homes in each district, one for girls and one for boys, two certified schools for group of five districts, one for girls and one for boys in each state.

Increased awareness and training among personnel functioning under the JJS should be made compulsory. There is a strong need for taking a policy decision in the scheme of the legislation itself for resorting to in institutions as a measure of last resort and only for the minimum period necessary, until some community placement is worked out. The legislation must clearly prioritize the various orders that may be passed in relation to children. The analysis of the implementation process in the pre-JJA period, relating to the JJS in India, proved its most unsystematic approach. Its direction and pace was not determined or guided by the needs and number of children requiring care and protection. The status of the beneficiaries sought to be protected and the attitude of the state and society towards them are some of the reasons behind its poor implementation.

The provisions regarding providing shelter to the juvenile are still far away
from taking practical shape. It is really incomplete service provided by the government. It has to be looked into on the ground as per the spirit of the beneficial enactment. A specified number of juveniles should be kept in the shelter and observation homes etc. But inflow of the delinquent juvenile in large numbers led to the congestion in the homes which ultimately result into a pandemonium and acceleration of the juveniles problems.

Apart from it, role of some organizations like police and other NGOs to a certain extent is commendable but still a lot is required to be done and various schemes are required to be implemented in more pragmatically. The study has revealed that the police a number of times under the garb of implementation of the law apprehend the juveniles and even take them on remand without ascertaining or determination of their age merely on the assumptions of their serious involvement with the main accused. The police or the other law enforcing agency including court does not inquire this fact that whether he is a juvenile or criminal. It is certainly a misuse of the power which requires great concern of the courts as well as the other law executive agencies.

The community participation also leads to spread of awareness amongst various strata of the societies. With the passage of time and due to community participations the awareness in comparison to the earlier decades has increased. Now the position of the juvenile has ameliorated and is not as pathetic as was in earlier decades of the last century. Introduction of the training programmes by the government for its agencies involved in implementation of the Act has really proved fruitful. It has helped them changing views towards juvenile offenders. Awareness among the juveniles also helped them to change their criminal mind and create an aura of healthy atmosphere which further helped the juvenile to abstain from doing such illegal activity in which he was involved.

The case after filing of charge sheet must be disposed of within the next six months at the maximum, otherwise the prosecution case is liable to be quashed. Now Juvenile Justice Rules, 2007, provide that the inquiry should be completed within four months in case of a serious offence and for reasons to be
recorded by the Board. The time can be extended by two months only. That means in case the inquiry against a juvenile cannot left in any circumstance beyond six months but unfortunately the cases are pending in the court for a longer period. The role of the Apex Court and the higher court has been appreciated by the jurists, NGOs and academicians large as this paved the way for early disposal of the cases pending against the juvenile delinquents. The juvenile incarcerated in the various jails of the country are either released or their cases disposed of. In view of the directions issued by Supreme Court in Sheela Barse's case. This case has also resulted in enactment of a uniform legislation for care and protection of the children in the whole country except State of Jammu and Kashmir.

It is certainly one among the initiators of the process for implementation of Juvenile Justice Act. Later, The State of Jammu and Kashmir also accepted the scheme for overseeing the implementation of the Juvenile Justice Act by the Supreme Court. Despite the fact that the Juvenile Justice Act does not extend to the State of Jammu & Kashmir, the Supreme Court successfully persuaded the state to accept the scheme to ensure protection to its children. It implied that the state of Jammu & Kashmir had agreed to implement the orders as and when passed by the Supreme Court for the implementation of the provisions of the Juvenile Justice Act. This case presents many insights for the persons working in the field of children's rights and welfare. The information supplied by the various agencies in Sheela Barse case confirmed that there was widespread ignorance of the concept as well as the content of JJS in India. Children cannot get a fair deal and necessary protection from the enforcement agencies in the absence of such knowledge and empathy. Generation of sufficient knowledge and awareness of the philosophy and legal provisions of the JJS, therefore, becomes a prime task for individuals and bodies working for children. The Supreme Court and High Courts have played an important role in interpreting the provisions of Children Act, 1960, Juvenile Justice Act, 1986 and Juvenile Justice (Care and Protection of Children) Act, 2000 in such a way that has provided maximum relief to the juveniles of the legislation which were made for the benefit Care and Protection of the juveniles.
The Supreme Court’s initiative in implementation of the JJA did not change either the direction or the pattern of the implementation of the juvenile justice services, though it did increase its pace in some cases. Orders of the Supreme Court primarily emphasized the establishment of institutional paraphernalia. At the last the Supreme Court emphasized on the involvement of the community operations under the JJA. The JJA provides ample scope for involving voluntary social workers and organizations at various stages and bodies related to the JJS. The Supreme Court could have also ensured implementation of those provisions by asking the voluntary organizations to depute one of their workers for various activities under the JJA. The voluntary organizations could not have in addition, the Supreme Court could have directed the creation of district level committees constituted by voluntary social workers or organizations to act as watchdogs of the children’s interest. It would have not only increased community participation but also worked as a measure of quality control, specially important in the case of children who themselves cannot raise a voice against deficient services.

The approach of the Supreme Court towards juvenile has been very liberal. It was way back in 1977 that when Supreme Court in a case\textsuperscript{23} held that penalty of death should not be imposed on a person below 18 years of age. Borstal Acts and Reformatory Schools Acts had the children guilty of offence punishable with death or life imprisonment in their focus. Though the judicial opinion was not uniform on the issue when these Acts could apply to such children\textsuperscript{24}. Segregation of juvenile from adult offender has also been supported and protected by the judiciary. The controversy as to the relevant date when a child could be held a juvenile was set at rest by Juvenile Justice (Care and Protection of Children) Act, 2000 which defines a juvenile can be a person who has not completed the age of 18 years on the date of commission of offence irrespective of his/her sex. However, this issue has been raised in many cases resulting into controversy as is

\textsuperscript{23} Raisul v State of UP, AIR 1977 (SC) 1822.

\textsuperscript{24} AIR 1965 (MP) 122, AIR 1937 (Nag) to 74 (DB) 1968 Crl.L J. 1178,1961, Mad. L J (Crl.) 705)
clear from the outcome of decisions in *Arnit Dass vs. State of Bihar*\(^{25}\) and *Umesh Chander Vs. State of Rajasthan*\(^{26}\). In *Umesh Chander's case*\(^{27}\), the Supreme Court held the date of commission of offence as the relevant date for applying the Children Acts. Whereas in *Arnit Dass's case* (supra), Bench of Supreme Court when confronted with a similar question regarding relevant date for applying the Juvenile Justice Act held that the date of first appearance was the relevant date.

The Supreme Court with a view to advance the cause of justice has allowed the plea of juvenility being raised for the first time before it\(^{28}\). The Supreme Court was confronted with the question whether appellant who was convicted and sentenced with adult accused should have been treated as child and send to approved school of detention instead of imprisonment to jail. The court considering material expressed its opinion that the appellant should have been dealt under the U.P. Children Act. The Supreme Court keeping in view of appellant's age i.e. 28 years refused to send him to approved school for detention. Again in *Pratap Singh vs. State of Jharkhand and another*\(^{29}\), the Supreme Court had to decide on conflicting views expressed in *Arnit Dass and Umesh Chandra's case* (supra). The Constitution Bench of Supreme Court to which the matter was referred overruling the decision in *Arnit Dass's case* upheld and re-affirmed its view taken in *Umesh Chandra's case* holding that the relevant date for determination of age of juvenile is the date of an offence and not date of his production before the court.

The Supreme Court and the High Courts have lent in favour of jurisdiction of the Board in preference to the jurisdiction of any other court. In *Raghubir v. State of Haryana*\(^{30}\), the Supreme Court held that accused of an offence under Section 302 IPC if juvenile is also entitled to benefit of the Children Act. Similarly, view was expressed in *Rohtash's case*\(^{31}\). In *Miss Sangita Jain v. S. A.*

\(^{25}\) AIR 2000 (SC) 2264  
\(^{26}\) 1982 Cri.LJ.994  
\(^{27}\) Supra  
\(^{28}\) Gopinath Ghosh v. State of West Bengal, 1984 Cri. L.J. 168 (SC)  
\(^{29}\) JT 2005(2) SC 271  
\(^{30}\) 1981 Cri. L.J. 1497.  
\(^{31}\) AIR 1979 SC 1938.
Bombay High Court while dealing with a Labour court case has gone a step further holding that Juvenile Justice Act, 1986 bars jurisdiction of all courts, thereby extending the jurisdiction of Juvenile Courts even to the matters pending before the Labour Court Tribunals. Similarly, the court widened the scope of the Juvenile Justice Board quashing the General Court Martial proceeding under Army Act and release of Ex.Gnr. Ajit Singh on the ground that he being a juvenile could not be tried by General Court Martial.

Regarding apprehension and production of the juvenile also the Supreme Court has been very sensitive. In Sheeela Barse and anr. (I) v. Union of India, the Supreme Court directed the District Judges in the country to nominate the Chief Judicial Magistrate or any other Judicial Magistrate to visit there respective jails and ascertain how many children below 16 years of age were confined and what were the charges against them. On the basis of the report submitted, it directed that the trial of children must take in Juvenile Courts and not regular Courts Magistrates should be suitably trained to deal with the children and the Central Government should bring a uniform law relating to the children in the entire country. Juvenile Justice Act has imposed special duties on the police with regard to the juveniles requiring the police to place the child in charge of special Juvenile Police Unit.

Regarding granting bail to juvenile also the Supreme Court has shown a very liberal face while holding that Juvenile Justice Act, 2000 is a beneficial legislation for the benefit of the juvenile and the Act must be construed as such Section 12 makes it mandatory for a juvenile offender to be released on bail by this court and all the courts dealing with such a situation must give full swing to the provision of said section as expressed in the objects of the Act. The observation was given in Rajinder Chandra v. State of Chhattisgarh and Anr. and Pratap Singh v. State of Jharkhand and Anr. cases. The court further opined

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33 (1986) 3 SCC 596
35 JT 2005 (2) 271.
in other case Arvind Vs. State\(^{36}\), that gravity of offence cannot be criteria for declining the bail. Regarding final disposition of juvenile also the court had the very soft approach and allowed the issue of child status raised before the Supreme Court for the first time. The Supreme Court held that even if the children are guilty of serious offence under Section 302 IPC, this should be dealt under The Children Act.

Keeping in view the various pronouncement of Supreme Court and the various High Courts in the country it can be concluded that the courts have put all its effort to advance the cause of a beneficial legislation to the juveniles and keeping in view the above discussion it is clear that Supreme Court of India and High Court has made a appreciable efforts to protect the interest of the juveniles but still needful is required to be done.

**Critical Appraisal of Juvenile Justice Act.**

Uniformity on the national level with regard to different treatment and other procedures relating to juvenile is still lacking. Prescribed institutions for custody and adjudication, trial and treatment of juveniles prescribed under the acts have not yet been properly created which is a major set back to successful implementation of Juvenile Justice Act, 2000. Lack of training in handling the force relating to the children on the part of the officials is also a decisive factor in non-implementation of the Act to full swing. Lack of coordination amongst various institutions involved in the process is also considered as failure to implement the Act apart from financial crunch in the institutions which is a discouraging factor in implementation of the beneficial legislation.

The Act has not prescribed minimum age below which the Act would not be applicable. The Act fails to expressly lay down the age of innocence. The definition of juvenile delinquency provides almost no scope for any acts to be dealt within the community.

1. The concept of parental responsibility encouraging child delinquency is also missing in the Act. It has been noticed that many a times parents are

\(^{36}\) 1999 (2) JCC Delhi 311.
responsible for putting their children where they are exploited and abused.

2. The education, recreation and training of the children in observation homes has not been properly provided for. The Act has also failed to consider basic or school education. Besides this higher education and training of these children should also be considered and included in the Act.

3. The Act has failed to provide for procedural guarantees like right to speedy trial. Though the Act provides for time frame for conclusion of the trial but it is observed that a number of cases are still pending in the courts for years.

4. The Act of 2000 is silent on inter-country adoption. Linkage between Juvenile Justice Act, 2000 and other legal provisions relating to child labour, primary education, sexual abuse, adoption, disabilities, health etc. is missing.

5. The juvenile justice adjudicatory cadre is drawn from the cadre of Magistrates of the state judiciary. The other implementing agencies and institutions like police are also not separate. Lack of institutional infrastructure and trained manpower has contributed a lot to blur the objective of the legislation.

6. No obligation has been cast on the part of the state in the Act on account of which a right based perspective is missing in the Act. So whatever in the name of protection is given to the child is not seen as a right but a charity or welfare. There is no specific provision ensuring services for children relating to education, health, legal and social. Even identification of the 'juvenile in need of care and protection' is not done for want of proper mechanism.

7. Keeping the high level of sensitivity of the issue and alarming rate of increasing number of juveniles a regular coordination amongst various government agencies working in the area is needed. But this coordination is missing and the Juvenile Justice Act, 2000 does not have any provision to ensure the continuous supervision, monitoring and evaluation of the functioning of juvenile justice system as a whole.

8. The coverage of the Act is quite limited and a large number is still away from its purview. The children affected by drug abuse, HIV/AIDS, militancy, disaster etc. do not have any redressal under the Act and the issues like marriage, female foeticide, working children, street children is also not covered under it.

9. The problem gets engraved due to lack of support services to venerable
families which are factories for turning their children into delinquency. There is no yardstick to standardize the facilities and services in the institutions in different states. There is no way to know the quality of performance of various institutions working in the area of juvenile justice.

10. The police which has a direct and immediate contact with the juvenile delinquents more than often violates the procedure for handling the juvenile and police indifference in implementing the law is most disappointing. There are instances to record a wrong age in the police record to avoid their fatigue in taking the juvenile delinquent before the Juvenile Justice Board. The arrangement for reintegrating the child into family and society for its proper rehabilitation and after care service is almost non-existent.

11. The Supreme Court is of the view that whenever any law is enacted by the government it should be ensured beforehand that the states are ready with the infrastructure to implement it otherwise besides blunting the objective of law this puts the whole machinery into unnecessary pressure and frustration. Our zeal to bring the law is more pronounced than evolving the ways and means to enact the same. The need to make a proper study and feasibility is imperative. At times the goals of such laws are too ambitious and they do not relate well to the ground level situation.

12. The problem of special care and needs of the disabled children have been ignored by the Act. The standards of quality care have also not been laid.

13. The expansion of definition of 'child in need of care and protection' could lead to undue influence in the lives of poor children and the families by the system.

On the Basis of the Critical Study the Following Suggestions are Given:

A. Juvenile Justice Board

1. As referred in section 4 of the Act, a special training programme must be prepared and the officers of the Board including the Principal Magistrate should be given training of child psychology and child welfare.

2. Ambience of the place where the Board holds enquiry should be child friendly. Wearing of black coats, using raised platforms or dias etc should be avoided. Practice of making the juvenile stand in front of the Board should be
stopped. The child must be made comfortable and feel free from fear of any person. Sittings can be held by the Board in the observation homes.

3. Basic infrastructure like computer, typewriter, stenographer, furniture and buildings should also be provided to the Board for smooth discharge of duties.

4. There should be a proper maintenance of files and case records.

5. Video linking of the homes should be provided for children to facilitate inspection and supervision by the Board to keep a check on anything done against the best interest of the child.

6. At least one of the two social workers in a Board should be a person with a minimum qualification of law degree.

7. The Board should be provided with a list of experts in the field of psychology, counseling, clinical psychiatrist, NGOs, panelists of advocates and fit institutions and fit persons, observation homes, special homes and voluntary organizations who are dedicated to the field of child welfare. The services of such persons may be utilized. The officers manning the juvenile courts/Boards need to be sensitized to the development need of the juvenile in which case, flexible enough to respond to new discoveries in social sciences research and willing to invest in the experiment with promising new interventions for offenders.

8. For giving good services to the juvenile and the parents of the child, they should be treated psychologically in consultation with a psychiatric. For the same, a psychologist and one social worker, who has awareness of the relevant law, must be appointed in the Juvenile Justice Board.

9. Co-operation of NGOs and other social organizations may also be sought for by the J J Board in addition to special juvenile police unit and probation officer. Probation officer should be given the sufficient training that how they have to prepare the social investigation report which will help the JJB. Lady probation officer be appointed instead of government probation officer for the preparation of social investigation report.

10. One government welfare official should be appointed by the
government to work as a liaison officer between the NGO and Juvenile Justice Board's child welfare committee. In this regard, the State Government Welfare Department may organize seminars, sensitization and orientation programmes inviting all probable officials, police personnel who are responsible for better delivery of justice to the children.

**B. Treatment of Juvenile**

1. Juvenile should be brought before J J B within 24 hours.

2. The age of the juvenile should be determined with reference to the date of commission of the offence. A detailed scientific investigation for determination of the age is not required.

3. The Board should ensure that privacy rights of the juvenile are not violated and section 21 of J J Act is strictly complied in letter and spirit.

4. The juvenile has the same Constitutional safeguards like other adult offenders. The statement of the juvenile under section 313 Cr PC should be recorded and if he/she wants to adduce evidence then that should also be allowed.

5. In no case the juvenile shall be sentenced to death or committed to prison in default of payment of fine or default of furnishing security.

6. Whenever a juvenile is produced before a magistrate not empowered to exercise the powers of the board under the J. J. Act such magistrate should without any delay record such opinion as regards the juvenile and forward the records and the juvenile to the Board and the board shall hold the enquiry as if the juvenile had originally been brought before it.

7. Judges in the juvenile courts should be trained to recognize the educational, social and treatment needs of the children in crisis.

8. Mere implementing the laws without there being proper infrastructure or its proper implementation remains incomplete. This part should also be simultaneously dealt with by all concerned government or non-governmental agencies.

9. There is religion based adoption system in India. It needs to be under uniform law not based on religion and a comprehensive inter-country
adoption law is also required.

10. For proper implementation and giving relief to the juveniles, determination of age is a relevant factor. In India because of many reasons many children do not have birth certificates so even in absence of age proof the beneficial provision of the Act should be made applicable to the child in appropriate cases.

C. Procedure for Inquiry

1. Principal Magistrate should not be entrusted with any other work of the criminal court except the JJB as the Board is required to complete the enquiry within 4 months.

2. Due to the variations in state rules from state to state, there is an ambiguity regarding proper implementation of provisions of the Act. Therefore, common rules should be followed throughout India in all JJ Boards.

3. Stay in special home or observation home to be ordered only in exceptional cases and for strong reasons which are to be recorded.

4. The board should conduct independent and private inquiries with the juvenile to ascertain whether he/she was abused, sexually or otherwise by anyone or is suffering from any disease and if it so the juvenile be sent to government hospital for checking and treatment.

5. The Board should also ensure that the police officer who apprehends a juvenile should inform the parent or guardian of the juvenile regarding such apprehension.

6. The Board shall not adjudicate the proceedings or affect the dispositions of the enquiry without calling the report of probationary officer.

7. Summary procedure should be adopted during enquiry instead of summons procedure trial.

8. No joint proceeding of a juvenile and an adult accused should be held.

9. Monthly group meeting should be organized of all departments which are engaged in the welfare of the child i.e. District Judge, members of J.J.Board, welfare officer and superintendent of the observation home etc for discussing the
programme for welfare and betterment of children.

10. JJ B should conduct awareness programmes about offences against children in every school situated in their jurisdiction through legal aid campaign.

11. The Board may also be complainant and lodge the case in any regular court when it is found that provisions of section 21, 23, 25, 26 have been violated and offence is committed against the juvenile by any person who has been given actual control or control of the juvenile.

D. Rehabilitation/ Shelter Home/ Observation Home.

1. There should be separate homes for juveniles and the destitute should not be mixed with the juveniles. Homes should not be constructed like jails. The homes for children should be video linked to facilitate inspection and supervision by the Board so as to keep a check on anything done against the best interest of the child. Also, surprise visits should be made at the special homes, juvenile homes and observation homes. Senior citizens should be involved as community resource person to look after the well being of the children in various homes with their expertise in different fields.

2. Schooling of the children in the homes up to the age of 14 should be made compulsory. They should be given the best of the facilities and opportunities like any Boarding school (hostel) making a course of moral science and civics compulsory for those who are in homes. For the welfare of juvenile, he must be allowed to go on leave and released on license during examination so that he can continue with his studies. Sponsorships should be provided for education of juveniles in good institutions. Personality enhancement courses should be organized. There is no provision of providing legal aid under JJ Act. There is no assistance provided by the lawyer to a juvenile facing a criminal charge before the Board. This is a serious loop hole in the Act, which requires immediate attention.

3. For better welfare of juvenile games, sports and other functional programmes may be organized in observation home and institution and encourage the juvenile to participate in these programme so they connect themselves with society. During festival seasons some cultural programmes should be organized in
the homes for the inmates with the assistance of voluntarily organizations.

4. Adoption used in section 41 should be defined to avoid conflict.

5. The property right of the juvenile on adoption be incorporated in the Act in clear terms.

E. Police

1. The state governments should be directed to establish a special juvenile police unit in every district and the unit must be specially instructed and trained in child psychology and child welfare. The public prosecutors handling the cases should be sensitised and given training with the juvenile police.

2. As soon as a juvenile 'in conflict with law' is apprehended by the police he/she should be placed under the charge of the special juvenile police unit or the designated police officer. Police should be given sufficient direction that summons or warrant of the juvenile be served/executed in time so that the JJB can complete the enquiry within four months as per the mandate of the JJA.

3. A time limit should be fixed for investigation. Juvenile police officers who investigate the case must submit the final form within 60 days or 90 days depending upon the nature of the offence from the date of complaint.

4. A social worker may be associated in the investigation made by the police officer. In the child cell at least one lady police officer should be posted/appointed.

5. The police department also plays a very important role in ensuring child protection. But, practically police officials are not aware about provisions of the JJ Act. Hence, awareness programmes should be conducted at the police station level wherein Principal Magistrate and members of JJB, members of child welfare committees and NGOs should also be involved.

F. Miscellaneous

1. The High Court should take initiative to create and establish more and exclusive Juvenile Justice Boards in order to dispose Juvenile cases within specified period as intended in J. J. Act, of 2000.

2. The Juvenile Justice Board should be made functional on all working
days and the proceedings be held on all working days.

3. The Act should be amended to enable the JJB to directly entertain complaints of child for offence against them instead of being through police so that the child can give his complaint without any fear.

4. The J J Act, 2000 does not make any difference between a male and a female child. Such scheme of the J J Act however fails to take a note of the fact that the female juvenile being highly vulnerable is likely to be more comfortably and conveniently exploited and even abused adversely. Such a female juvenile needs special protection even at an observation home or at a place of safety, notwithstanding the fact that voluntary social organizations may come forward to provide a place of safety. An inbuilt safety mechanism is required to be provided to such a female juvenile in the Act itself.

5. Provision should be made to divert at least 25% of the fine amount collected by the criminal courts at each place towards creation of a juvenile welfare and rehabilitation fund, at the disposal of the J J Board of the particular place/area to be utilized by it in day to day rehabilitation need of the juvenile or child concerned.

6. Section 16(1) of the Act should be amended and expression "life imprisonment", be substituted by expression "any imprisonment". This shall be in consonance with the Legislative intent in section 16(2) of the Act.

7. The Act is silent as to whether a juvenile involved in a TADA/POTA/NDPS Act case can be bailed out under section 12. To avoid any confusion and give immediate relief to the juveniles the Act should specifically provide for bail even in cases of abovesaid catagories.

8. The Juvenile Justice Act is silent about doing justice to the victims who have been victimized in the hands of juveniles. Necessary provisions/amendments should be made in this regard.

9. 'Protective custody' should be defined in Juvenile Justice Act to avoid any confusion.

10. The Act should make it clear as to when enquiry commences. Section
14 being silent about it may create confusion.

11. Voluntary social organisation with necessary government supervision and assistance should be allowed to run after care programmes to build a meaningful and constructive after care programme in order to rehabilitate the inmates by helping them to secure jobs in various government and private undertakings.

12. Until special police units are constituted investigation of cases of juveniles should be done by the specially trained police officers for which a training should be imparted to them.

13. Orientation courses, seminars and awareness programmes should be organized by government on juvenile justice on regular intervals to enable the functionaries imbibe the message discussed and conveyed to them.

14. It is not enough to make good legislation unless it is honestly, strictly and scrupulously enforced without fear and favour. The Juvenile Justice Act has been enacted for the purpose of providing care and protection to the child. So the functionaries of the JJS should enforce the Act honestly, strictly and without any fear and favour.

15. The primary purpose of JJS being protection of the child, it is required to adopt measures for keeping the child integrated with the family and within the mainstream of the society. The Advisory Board should be established at the central, state, district and city level for integration of the children with the family. The Advisory Boards should be provided infrastructure and facility so that desired qualitative output can rendered by them.

16. The community participation should be maximised.

17. NGOs working on the street and with children should be increasingly involved. For children without family, every efforts should be made to find out an alternative family placement, failing which institutionalization may be resorted to.

18. The pattern of the SOS children's villages which stood recommended as far back as 1920 by the Indian Jail Committee 1919-20 should be followed by the homes established or recognized for placing children. Community services
for education, vocational training and recreation along with other children in the society may be used by these homes to ensure that the institutionalized juveniles are not marginalised and that the standard of programmes for the institutionalized children is at par with those for other children.

19. The community based programmes should be under close supervision to ensure fulfillment of obligation by the child and the person in whose care juvenile is placed under the placement order. For this purpose the number of probation officers/social workers and case workers be also increased to the standardized ratio between such workers and children.

20. The National Commission for Protection of Child Rights (NCPCR) was set up in March 2007 under the Commission for Protection of Child Rights Act, 2005, an act passed by Parliament in December 2005. The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child. The Commission should focus and evolve programmes for all categories of children co-ordinating various programmes, undertaking follow-up of its recommendation with various other bodies and departments to create a database for policy formulation and review.

21. The states should establish a clear relationship between JJA and other legislations that affect the life of the children covered under its scope.

22. There is need to evolve alternative ways of dealing with children. Merely renaming the existing structures as by done the JJA serves no purpose. The state should start experimental projects with alternative ways for dealing with children and after successful evaluation they should be made part of the enforceable law.

23. Probation and other community based programmes, apart from being cost effective should be preferred for their potential for ensuring better care and rehabilitation of juveniles.
Conclusion:

In brief, it can be said that juvenile justice system in India has gained momentum. Attitude and perception towards Child Rights needs a change. On the legislative side a lot of work has been done in India but implementation part still requires improvement. The laws enacted requires to be effectively implemented to achieve the desired goal of welfare of the children. The society must encourage children's participation in matters effecting their rights as services to the children are no longer a charity. The judiciary has played an appreciable role and contributed a lot in proper and beneficial implementation of the juvenile justice legislation by interpreting the provisions of Juvenile Justice Acts so as to provide maximum benefit and relief to the maximum number of the juveniles covered under the beneficial and favourable legislation.

A good intended legislation, properly and sincerely implemented and visionary interpreted, can significantly reverse the crime trends in the juveniles.