

Chapter 1- Introduction

1.1 Introduction

In the history of civilization, juvenile justice is a new development. The historical development of separate justice system for juveniles in India indicates that it is an offshoot of criminal justice system. This concept of separate juvenile justice system stems from the notion of fairness and justness, and reflects that the adjudicatory bodies should consider the mental & physical incapacities of children.¹ The first juvenile court which was established in Illinois, USA in the year 1899 was based on the principle that rehabilitation is a better response to juvenile delinquency.² The philosophical foundation for the separate juvenile court was based on the doctrine of *parens patriae* which permitted the State/ juvenile courts to intervene, take custody and to care for the children when the parents failed to protect their children, thus paving way for the juvenile courts to assume jurisdiction over the dependent, neglected children including the juvenile offenders.³ However, with the passage of time, the so-called rise of serious crimes committed by juveniles raised serious concerns for public safety leading to deterrent approaches in the juvenile justice practice. This system of pure rehabilitative approach to juvenile justice persisted until about 1970's and the first country to modify this approach was USA by deciding a series of landmark cases- *Kent v. United States* (1966), *re Gault* (1967) etc.⁴ These decisions recognized due process rights of those juvenile delinquents transferred to

¹ Melissa Cashdollar et al, *Advocating for a shift in perspective: An assessment of the Indian juvenile justice system utilizing the United Nations Measurement of Juvenile Justice Indicators*, 27(4) *Childrens Legal Rights Journal* 1, 6 (2007) ; B.B.Pande, *The Indian Juvenile Justice Jurisprudence & the Convention on the Rights of Child*, at 4, available at <http://www.workingchild.org/html/jj.htm>, last seen on 23/04/2013

² The History of Juvenile Justice, ABA Division for Public Education, *Dialogue on Youth & Justice* at 5, available at <https://www.americanbar.org/content/dam/aba/migrated/publiced/features/DYJpart1.authcheckdam.pdf>, last seen on 14/04/2015

³ Ibid; H.Warren Dunham, *The Juvenile Court: Contradictory Orientations in Processing Offenders*, 23 *Law and Contemporary problems* 508, 509 (Summer 1958), available at <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2763&context=lcp>, last seen on 30/05/2017

⁴ Josine Junger- Tas, *Trends in International juvenile justice: What conclusions can be drawn?* *International Handbook of Juvenile Justice*, 505-532 (2008), available at http://mike.rivait.net/Files_October1_2008/Trends%20in%20Internation%20Juvenile%20Justice.pdf , last seen on 5/09/2015

adult courts to be tried as an adult in certain cases. This *punitive based approach* focused on due process rights, public safety, punishment and accountability of juvenile delinquents. Many countries across the world have gone through this similar transition and the purpose of juvenile justice system has evidently changed from protecting children to protecting the society at large.

In India, the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred as JJA 2015) which came into force on 15.01.2016 repealing the earlier legislation of 2000 is based on the legal mandate recommended in Art.15(3), 39(e), 39(f), 45 and 47 of the Constitution of India.⁵ India, also as a State party to the United Nations Convention on the Rights of the Child, 1989 (UNCRC) and several other international instruments⁶ concerning juvenile justice is bound to safeguard the dignity and best interests of the child by implementing the essence of these conventions and rules in its domestic system. The JJA 2015 aims to establish separate system of justice for juveniles distinct from the adult criminal justice system and is more concerned with rehabilitation and reformation of juveniles. In India, a juvenile delinquent referred to as child in conflict with law is a person who has not attained the age of 18 years on the date of the commission of the alleged offence.⁷

It is broadly acknowledged that children and young persons have special needs and limited competencies, receptivity and abilities, and for these reasons require distinct, or atleast separate treatment from adults.⁸ In the oft-repeated Delhi gang rape of a

⁵ **Article 15(3), The Constitution of India**, “Nothing in this article shall prevent the State from making any special provision for women and children”; **Article 39 (f), The Constitution of India**, “The State shall provide children the opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment”; **Article 45, The Constitution of India**, “The State shall endeavor to provide for free and compulsory education for all children until they complete the age of fourteen years” ; **Article 47, The Constitution of India**, “The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavor to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.”

⁶ The Parliament has passed the JJA 2015 taking into consideration the standards prescribed in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (The Beijing Rules); United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990);Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (1993)(Preamble to JJA 2015)

⁷ Sec 2(13), JJA 2015

⁸ N M C Bala and R J Bromwich, “ Introduction: An international perspective on Youth justice” in N M C Bala and J B Hornick and N Howard and J J Paetsch(eds) , *Juvenile Justice Systems: An International Comparison of Problems and Solutions* (2002) at 3, available at

para-medical student (Dec.16, 2012) infamously known as Nirbhaya gang rape case, various media reports showed that it was the minor convict who persuaded the victims to get into the bus and that he was the most aggressive of all. On the other hand, the letter of the member of the National Commission for the Protection of Child Rights (NCPCR) to the Press Council of India in 2013 cited that the investigation established no record to show that the juvenile was the most brutal but, indicated that he was merely a secondary perpetrator in the crime.⁹ Prior to the passing of the JJA 2015, the preceding legislation, Juvenile Justice (Care & Protection of Children) Act, 2000 (hereafter JJA 2000) could place a child in conflict with law in a special home for rehabilitation in a homey atmosphere for a maximum period of three years irrespective of the gravity of the offence committed by the juvenile. The serious and violent crimes committed by the juvenile sometimes does question and challenge the justice of them remaining in the juvenile justice system. This heinous horrific incident (Nirbhaya's gang rape case) sparked public panic and prompted considerable criticisms and protests with some of the conservative sections of the society urging the reduction of the age of criminal responsibility of a juvenile from 18 to 16 years, while certain criminologists and child rights activists invariably endorsed the retention of the age limit of 18 years. There had been cries to increase sanctions associated with juvenile crimes to make the juvenile delinquents more accountable. The consequence of this impulsive reaction was the passage of the Juvenile Justice (Care and Protection of Children) Act, 2015 permitting the juveniles between the ages of 16-18 years to be tried as adults for heinous offences.¹⁰ These conflicting perspectives and concerns illustrate that the subject of juvenile justice is a matter of controversial debate in India among the public as well as the parliamentarians.

It is the duty of the State to adopt a balanced approach by paying adequate attention to the rights and special needs of the juvenile delinquents, their victims and the protection of the society at large. Rights of the victims of the crime, accountability of juvenile offenders and public safety are the goals that clash with the rehabilitation of

https://ir.canterbury.ac.nz/bitstream/handle/10092/851/thesis_fulltext.pdf.txt?sequence=2 at 2, last seen on 25/04/2016

⁹ Dhanya Rajendran, *Busting myths being propogated by media about Nirbhaya's juvenile rapist* , The News Minute (18/12/2015) available at <http://www.thenewsminute.com/article/busting-myths-being-propagated-media-about-nirbhaya%E2%80%99s-juvenile-rapist-36894>, last seen on 11/06/2016.

¹⁰ Sec 2(33) of the Juvenile Justice (Care and Protection of Children) Act, 2015- "heinous offences" includes the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more

juvenile offenders in the contemporary juvenile justice system in India and all over the world. As stated in the definition contained in the Manual for the Measurement for Juvenile Justice Indicators, “a juvenile justice system consists of laws, policies, guidelines, professionals, institutions and treatment specifically applicable to children in conflict with law.”¹¹ Simply put, apart from the legislation, there are many constituents that require consideration for building an efficacious juvenile justice system-the policy and the quality of the people involved in it, the way they discharge their duties, the procedures, the rehabilitative programmes, treatments, aftercare programs etc. For instance, despite child welfare legislations, it is unfortunate that 40% of the children in India continue to live in deplorable situations both within the statutory homes established under law in the juvenile justice system, as well as in the wider community.¹² Nevertheless, the latest brain researching studies, behavioural studies, new prevention and early intervention strategies, rehabilitation and social re-integration programs for juveniles have been implemented in many jurisdictions and thus paving way for optimistic reforms in the area of juvenile justice.

1.2 Statement of the problem

The subject of ‘juvenile and crime’ is regarded as one of the most significant socio-legal issues which have been widely discussed in the mass media, politics and the civil society. The JJA 2015 place greater emphasis on the rehabilitation and reformation of juveniles and they can be tried as an adult in Children’s Courts only in exceptional cases in a child friendly atmosphere. This undoubtedly shows our genuine concern towards juveniles but, there are also other considerations such as victim’s rights, accountability of juvenile delinquents, public safety etc. It is psychologically impossible to hate the sin and love the sinner.¹³ On the other hand countries like UK, USA, Canada and Norway treats their youth offenders differently from adults but, has

¹¹ United Nations Office on Drugs & Crime, Manual for the measurement of Juvenile Justice Indicators (2006) at 1

¹² Consolidated Report of Second Round of Regional Level Round Table Conferences, September 2016, on Strengthening the Rehabilitation and Restoration of Children in the Juvenile Justice System (2016) organized by the Supreme Court of India in support with the UNICEF and Child Center for Law, NLSIU at 1

¹³George Herbert Mead. "*The Psychology of Punitive Justice*", 23 American Journal of Sociology , 592, 577-602 (1918) also available at https://brocku.ca/MeadProject/Mead/pubs/Mead_1918a.html , last seen on 23/04/2014

reserved their most serious interventions for the serious most crimes committed by them.

Defining when childhood ends and adulthood begins is one of the most uneasy problems that the society faces even today. The recent scientific advancements on the study of brain development indicates that the pre-frontal cortex, the part of the brain which is responsible for decision making and impulse control are not fully mature until at least the mid -20s.¹⁴ The importance of this discovery cannot be understated as these recent scientific findings could have an impact on the law. However, there are no scientific findings which state that the adolescents cannot differentiate between right and wrong. Youth may be able to distinguish behaviour as inappropriate or dangerous, but other reasons such as peer pressure or a less developed capacity to foresee consequences may cause youth to engage in the behaviour anyway.¹⁵ Does this indicate that the juvenile can be totally excused for their violent and homicidal behavior? If yes, it would deprive the right of the victim to receive justice. Unfortunately, in India, no objective test has been laid down to draw the line between conclusion of childhood and commencement of adulthood. A juvenile committing a serious crime at the age of 17 years and 11 months is treated differently from a person committing the same crime at the age of 18 years and 1 day. Does the juvenile brain become an adult brain immediately on attaining the age of 18 years?

The JJA 2015 allows the Juvenile Justice Board (hereinafter referred to as JJB) to transfer the trial of juveniles aged 16 or above alleged to have committed heinous offences to the Children's Court after preliminary assessment. The preliminary assessment by the JJB shall be with regard to mental and physical capacity of the child to commit such alleged heinous offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence with the assistance of experienced psychologists, psycho-social workers and other

¹⁴ K. Sadler, N. Gupta, *Adolescent Global Health*, 121, 124 in *The Mass General Hospital for Children Handbook of Paediatric Global Health*, (N.Gupta, B.D. Nelson, J.Kasper, P.L.Hibberd, 2014)

¹⁵MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, "Research: Adolescent Decision-Making and Youthful Culpability," available at http://www.adjj.org/content/page.php?cat_id=2andcontent_id=11 (accessed March 5, 2009) ; Mark Soler, Dana Shoenberg, Marc Schindler, *Juvenile Justice: Lessons for a New Era*, 16 Georgetown Journal on Poverty Law & Policy 483, 493(2009) also available at <https://www.slideshare.net/JenniferLitwak/final-juvenile-justice-lessons-for-a-new-era>

experts.¹⁶ The availability and accessibility of proficient psychologists and experts in the Juvenile Justice Boards across the country is far from reality which will definitely affect the quality of assessments. The inevitable question which also arises is, “How to assess the mental maturity /capacity of a child and what are the tools and procedures to unambiguously assess it?” Non- availability of assessment procedure or tools would lead to arbitrary decisions with respect to transfer of juveniles to Children’s Courts.

The orders that the JJB may issue with respect to juvenile in conflict with law include detention in special home wherein he/she is reformed and rehabilitated for a maximum period of 3 years.¹⁷ There is no empirical evidence and rational reasoning to say that the complete rehabilitation can be achieved within a period of three years. The duration and extent of rehabilitation entirely depends upon how a person responds to it.

The Juvenile Justice (Care & Protection of Children) Act, 2000 (hereafter referred to as JJA 2000) had placed all juveniles up to the age of 18 years in one bracket irrespective of the gravity of offence committed by them which was contended to be ultra vires Article 14 of the Constitution of India pointing to the fact that the unequal’s had been clubbed together, not separately identified and analyzed and given the same benefit. The Statements of Objects and reasons of the Juvenile Justice (Care & Protection of Children) Bill, 2014 stated that the JJA 2000 was ill equipped to tackle the children in the age group of 16- 18 years by relying on the data collected by the National Crime Records Bureau (NCRB) which established increased cases of heinous crimes committed by the children in the age group of 16-18 years.¹⁸ But, the NCRB data is merely based on the number of juveniles apprehended and not on the number of convictions which was also observed by the Parliamentary Standing committee report. It clearly indicates that the number of heinous crimes committed by the juveniles in the age group of 16-18 years is definitely smaller than the data published by NCRB. The Parliamentary Standing Committee on Human Resource development had cautioned against this change. Therefore, it is contended that the JJA 2015 has provided for superficial differentiation of juvenile aged 16 – 18 years

¹⁶ Sec 15(1), Juvenile Justice (Care and Protection of Children) Act, 2015

¹⁷ Sec 18(1)(g), Juvenile Justice (Care and Protection of Children) Act, 2015

¹⁸ Committee on Human Resource Development, Rajya Sabha, *The Juvenile Justice (Care & Protection of Children) Bill*, 2014, at 8

without any rationale and justification and thus violating the Article 14 of the Constitution. The Justice Verma Committee (2013) which was constituted to recommend amendments to the Criminal Law also concluded that the age of ‘juveniles’ ought not to be reduced to 16 years. These contentions raise doubts as to whether the JJA 2015 was based on the real facts of delinquency or the negative perception that was created towards juveniles by the high profile cases.

The JJA 2015 does not take into account the fact relating to repeated offences and juveniles who are habitual offenders i.e. the records /documents of conviction in respect of a child in conflict with law below the age of 16 years as well as the records of the proceedings are not kept permanently¹⁹ and do not follow the juveniles into their adulthood. There are no official figures provided in India to show how many juvenile delinquents actually get rehabilitated. This indicates that there is lack of crucial data to test the effectiveness of present juvenile justice practice in India. It is also imperative to provide the juvenile with educational and vocational training in the Special Home to reform him but, the question which arises is whether the skills learned in these homes are enough for securing a livelihood in this technological complex society. If not, it may directly or indirectly contribute to his re-offending. Moreover, there has been regular reporting of deplorable living conditions in the child care institutions housing children in conflict with law.

Law has only limited role in effectively dealing with juveniles as the JJB can only make an order against a juvenile delinquent but, it is the Government which has to provide specific attention and services for juvenile delinquents. Decisions of Governments about resources for the juvenile justice rehabilitation and reintegration programs and wide-ranging social policies are more likely to have an impact on the levels of crimes committed by juveniles. The crucial shift in the JJA 2015 is the categorization of juveniles aged 16-18 years committing heinous offences to be tried as an adult after the assessment of physical and mental capacity of such juveniles.²⁰ As previously mentioned, one of the reasons stated in the Statements of Objects and reasons of the Juvenile Justice (Care and Protection of Children) Bill, 2014 for repealing the JJA 2000 was its inability to tackle the juvenile offenders in the age group of 16-18 years. Although, not explicitly stated in the Statements of Objects and

¹⁹ Sec 24(2) of the JJA 2015

²⁰ Sec 15, JJA 2015

Reasons of the bill, the underlying idea of this crucial change was to increase sanctions and to hold juveniles accountable for heinous offences. If, juveniles are to be held accountable for their delinquent acts, accountability must be integrated into every aspect of juvenile justice system i.e. law enforcers are equally accountable for their actions, dispositions and related rehabilitation and reintegration services.

The lack of fair trial rights is also a main concern of juvenile justice system in India as the hearings and decisions made outside the formal court system are not bound by rules and it may be feared taking on arbitrary nature. The young offender receives the worst of both the worlds; he neither gets the protection accorded to adults nor the solicitous care and regeneration postulated for children.²¹

1.3 Objectives of the Research Study

The purpose of this research is to critically examine the juvenile justice system i.e law relating to children in conflict with law in India. It also intends to explore juvenile justice practices in UK, USA, Canada and Norway to identify good and contemporary practices which could serve as guidance in developing better approaches for India.

1.4 Research Questions

1. Is the Indian juvenile justice system i.e law relating to children in conflict with law in compliance with the United Nations Convention on the Rights of Child, 1989 (UNCRC) and other relevant international instruments concerning juvenile justice?
2. Whether the term ‘juvenile in conflict with law’ under the Juvenile Justice (Care and Protection of Children) Act, 2000 required further categorization as in the existing Juvenile Justice (Care & Protection of Children) Act, 2015 i.e. categorization of juveniles aged 16-18 years on the basis of heinous offence.
3. Do the child care institutions concerning children in conflict with law (Observation homes, special homes and place of safety) in Karnataka meet minimal standards

²¹ Kent vs. United states 383 US 521, 561 (1966)

prescribed for such institutions? Are the rehabilitative services provided in these homes effective enough to reform the juveniles to enable them to re-enter the mainstream society?

4. What are the structural mechanisms that exist in India to ensure the accountability of all the key actors involved in the Indian juvenile justice system dealing with children in conflict with law?

1.5 Hypotheses

1. There is relationship between the age and nature of crimes committed by juveniles in India.
2. Lack of qualified, trained and committed personnel is the main cause for the ineffective implementation of law relating to children in conflict with law.

1.6 Research Methodology

1.6.1 Research methods

The thesis is mainly a *critical study* of the juvenile justice system in India i.e law relating to children in conflict with law. The General Comment No.10 adopted by the United Nations Committee on the Rights of the Child (UNCTRC) held in Geneva in 2007 on the children's rights in the juvenile justice²² indicated core components of a comprehensive juvenile justice policy which are as follows-

- i. Prevention of Juvenile delinquency
- ii. Interventions without resorting to judicial proceedings
- iii. Interventions in the context of judicial proceedings
- iv. Minimum Age of Criminal responsibility
- v. Maximum age limit for juvenile justice

²² UN Committee on the Rights of the Child (CRC), *General comment No. 10 (2007): Children's Rights in Juvenile Justice*, 25 April 2007, CRC/C/GC/10, available at: <http://www.refworld.org/docid/4670fca12.html> [accessed 12 June 2016]

- vi. Guarantees for fair trial
- vii.Measures- Pretrial Alternatives & Dispositions made by the Juvenile Court/ Judge
- viii.Deprivation of liberty including pre-trial detention and post trial incarceration including custodial and non-custodial sentences

This research study critically analyses the Indian law relating to children in conflict with law by applying the aforementioned core elements. Throughout the research study, the terms juvenile delinquents and children in conflict with law has been used interchangeably.

Today, practically every country across the globe recognizes that children are different from adults and are not held accountable for their violations of criminal law in the same way as adults. There is still a worldwide discussion about the most appropriate way of dealing with serious and violent juvenile delinquents. UK's youth justice system focuses more on prevention of youth crime i.e. early identification and intervention programs, USA, which is the most researched juvenile justice system holds its young offenders accountable for their actions through punishments, Canada and Norway adopts an integrated approach emphasizing on rehabilitation and reintegration of juvenile offenders. A key element of juvenile justice practice of the aforementioned countries is that they have reserved their most serious intervention for the serious most crimes. Against this background, on the basis of their approaches to juvenile delinquency, the researcher intended to *explore* juvenile justice practices in UK (England), USA, Canada and Norway to discover good and contemporary practices which may provide beneficial insights and which could be implemented in the Indian juvenile justice system. Furthermore, the researcher understands that it is not possible to establish direct comparison between India and these countries due to differences in their historical, social, cultural characteristics and legal, political, economic process. Therefore, the researcher does not intend to make any direct comparison. But, selected comparisons are made only to understand key differences and similarities between the Indian and selected jurisdictions approaches to juvenile delinquency.

The researcher has employed both *doctrinal and non-doctrinal methods*. As far as doctrinal study is concerned, the researcher has placed emphasis on review of relevant

literature available on juveniles in India and also in selected jurisdictions. In regard to doctrinal research, the study relies on primary sources including international instruments concerning juvenile justice, legislations, case laws, law reports etc. The study also places considerable reliance on secondary sources of law. The researcher has also looked for sources in other areas that include psychology, neuroscience and sociology to help broaden the search for relevant information on child development.

1.6.2 Selecting the Sample & Contacting the participants of the study

As far as non-doctrinal/empirical study is concerned, ***qualitative method*** is employed. The qualitative research method is chosen because the researcher intends to collect and analyze the views of the personnel working with children in conflict with law. Therefore, the sampling method that is adopted by the researcher is ***judgmental or purposive sampling***. The main criterion for selecting the juvenile justice personnel working with children in conflict with law as the respondents for this research study is that they may provide useful and practical information because they closely see how the system actually works.

The State of Karnataka covers an area of 1, 91,791 square kilometers with population of 61.10 million (2011 census). The child population in Karnataka is 71, 61,033 (2011 census).²³ Karnataka is one of the India's most progressive States which has recorded second highest level of per-capita income in India.²⁴ The empirical study is conducted in the State of Karnataka. The following personnel of the juvenile justice system dealing with children in conflict with law in the three selected districts of Karnataka i.e. Bangalore (Urban), Udupi & Dharwad participated in this empirical study.

1. The members of the Juvenile Justice Board of the three selected districts for the study (1 Principle Magistrate + 2 social workers= Total of 9nos.)

2. Defence lawyers for juveniles in conflict with law at Bangalore (U), Udupi and Dharwad (5 nos.)

²³ <http://www.census2011.co.in/questions/9/state-childpopulation/child-population-of-karnataka-state-2011.html>

²⁴ *Karnataka has shown the way towards economic growth but now it needs to blaze new trail*, The Economic Times-ET Rise (5/02/2018), available at <https://economictimes.indiatimes.com/small-biz/startups/newsbuzz/karnataka-has-shown-the-way-towards-economic-growth-but-now-it-needs-to-blaze-new-trails/articleshow/62786190.cms>, last seen on 29/04/2018

3. Assistant Public Prosecutor (3nos.). The three selected districts for the study has appointed one APP for their respective JJB

4. Staff members of the Observation Home, Bangalore (U), Udupi & Dharwad (12nos.)

5. Staff members of the Special Home, Bangalore (U) (5nos.)

The staff members of the Observation Home and Special Home include Superintendent, Probation Officer, Counselor, Housefather/ Housemother, Staff nurse etc

6. Child Welfare Police officers, Bangalore (U), Udupi & Dharwad (15nos.)

7. Probation Officer (Criminal Court Complex, Bangalore) (1no.)

8. Child and Adolescent Psychiatrist, National Institute of Mental Health & Neuro Sciences (NIMHANS) Bangalore (1 no.)

9. Social workers (BOSCO and APSA NGO, Bangalore) associated with Special Juvenile Police Units (3nos.)

Efforts were made by the researcher to get in touch with every key personnel working with children in conflict with law in these districts. A total of 54 personnel participated in the study. The researcher also visited institutions concerning children in conflict with law in the selected districts for the study i.e Special Juvenile Police Units, Juvenile Justice Board, Observation Homes & Special Home.

For the purpose of the empirical study, three districts of Karnataka i.e Bangalore Urban, Udupi & Dharwad has been selected. Reaching out to the respondents of all the 30 districts of Karnataka was difficult. Therefore, the researcher has attempted to choose these districts for the study in such a way that they practically represent the situation of the State of Karnataka. These three districts fall in three distinct regions of Karnataka- Dharwad is situated in the north Karnataka region, Bangalore (Urban) is situated in the southeast region & Udupi is situated in the southwest region of Karnataka.

It is pertinent to note here that Observation Homes are established for a group of districts in Karnataka. There is only one Special Home in Karnataka which is situated in Bangalore. For selecting the districts, it was also decided that only those districts with Observation Home would be included in the study.

- *Observation Home, Bangalore (Urban)* covers 6 districts of Karnataka i.e Bangalore Urban, Bangalore Rural, Ramanagara, Tumkur, Chikkaballapur & Kolar
- *Observation Home, Dharwad* covers 3 districts of Karnataka i.e Dharwad, Gadag & Haveri
- *Observation Home, Udupi* covers 2 districts of Karnataka i.e Udupi & Dakshina Kannada

The empirical study and data collection was done during November 2016 to March 2018. Formal permission was sought from the Karnataka State Child Protection Society, falling under the Department of Women & Child Development. This was the first step taken by the researcher to obtain access to Juvenile Justice Boards (JJB), Observation Homes & Special Home across the State of Karnataka. Then, the researcher was instructed to get the formal permission from the respective District Child Protection Unit of the selected districts for the study. Next, the Superintendents of the Observation Home & Special Home were contacted to schedule the visit & meeting with the staff members of these homes. The researcher also sought the permission from JJB to attend the hearings & observe them. The said permission was granted by the JJB Bangalore and Dharwad but refused by the JJB, Udupi.

1.6.3 Method of Data collection

Data was collected from the participants of the study through *semi structured interviews using open ended questions. A separate set of questions were prepared for different personnel.* The researcher has visited and made a *direct observation* of the Observation home, Special Home and Juvenile Justice Board hearings in Bangalore (Urban), Udupi & Dharwad. As already elaborated, *the empirical/ non-doctrinal study of researcher concentrates on three districts of Karnataka- Bangalore (Urban), Udupi & Dharwad. By presenting the collected data the researcher does not intend to generalize it but, intends to grant valuable insights.* Further, the data for the research study has also been collected under the Right to Information Act, 2005.

The researcher has classified the responses given by the participants and other data collected through the RTI into main themes which is followed by interpretation. Some of the main themes have been quantified which is presented in the pie chart form to provide their prevalence and significance. Further, one of the hypotheses is statistically tested with the use of data available in the National Crime Records Bureau.

1.7 Problems and limitations of the study

The researcher experienced difficulties and delays in securing permissions from the Observation Homes & Special Home to carry out the empirical research study. Further, the researcher spent atleast one year to get in touch with the respondents and obtain their informed consent to participate in the research. The researcher was not given access to any records relating to juveniles in the empirical study by citing reasons of privacy and confidentiality.

The scope of the study is limited. This research study is limited to the juveniles/children in conflict with law comprising the juvenile justice system in India. Children in need of care and protection are not covered in the study. The title of this study uses the words ‘Juvenile Justice’ instead of ‘child in conflict with law’ because the existing legislation continues to include the words ‘Juvenile Justice’ in its title. Although, the entire text of the JJA 2015 uses the words ‘children in conflict with law’, the Ministry of Women & Child Development stated that the change in title would create confusion in the field as the words ‘juvenile justice’ in JJA 2000, after a decade of implementation is well understood by most of the stakeholders under the Act as well as the civil society.²⁵

The non-doctrinal study of the researcher covers only three districts of Karnataka-Bangalore (Urban), Udupi & Dharwad. The constraint of time and money did not permit the researcher to select more than three districts for the study. By presenting the collected data, the researcher does not intend to generalize the findings, but

²⁵ Committee on Human Resource Development, Rajya Sabha, The Juvenile Justice(Care & Protection of Children) Bill, 2014, at 48

intends to grant valuable insights which could serve as guidance for further improvements in juvenile justice practices in India.

The researcher has also explored the juvenile justice practices in UK (England), USA, Canada and Norway to discover good and innovative practices, but no direct comparisons with India has been made. The researcher understands that it is not possible to establish direct comparison between India & these countries due to differences in their historical, social, cultural characteristics and legal, political, economic process

The correctness of National Crime Records Bureau data used in this study is subject to its limitations.

1.8 CHAPTERS

Chapter 1– Introduction provides an overall introduction to the research study, context of research, objectives and description of research methodology employed to gather information. This chapter also contains literature review wherein researcher has reviewed books and scholarly articles on children in conflict with law in the Indian context as well as other selected jurisdictions and has provided useful points of reference.

Chapter 2- The Juvenile Justice system in India examines various theories of causation of juvenile delinquency for better understanding of the concept of juvenile delinquency. It also provides an overview of historical themes that have guided the development of a separate justice system for juveniles in India. It also aims to briefly describe the organization and structure of current juvenile justice system in India dealing with children in conflict with law. This is followed by discussion on the nature and extent of crimes committed by juveniles in India.

Chapter 3- The Age of Criminal Responsibility discusses the current statutory provisions on the age of criminal responsibility of a juvenile in India and its compliance to the international standards and relevant constitutional provisions. The researcher has also discussed latest scientific research on adolescent brain

development. Relevant information on child development found in child psychology and child sociology is also incorporated in this chapter.

Chapter 4- Assessment of Practices in the Indian Juvenile Justice System concerning children in conflict with law and its Accountability mechanisms

The General Comment No.10 adopted by the United Nations Committee on the Rights of the Child (UNCTRC) held in Geneva in 2000 on the Children's Rights in the Juvenile Justice²⁶ indicated & elaborated on the core components of a comprehensive juvenile justice policy which are as follows-

- i. Prevention of juvenile delinquency
- ii. Interventions without resorting to judicial proceedings
- iii. Interventions in the context of judicial proceedings
- iv. Minimum Age of Criminal responsibility
- v. Maximum age limit for juvenile justice
- vi. Guarantees for fair trial
- vii.Measures- Pretrial Alternatives & Dispositions made by the Juvenile Court/ Judge
- viii.Deprivation of liberty including pre-trial detention and post trial incarceration including custodial and non-custodial sentences

This chapter critically analyzes the Indian law relating to children in conflict with law by applying the aforementioned core elements. The Age of Criminal Responsibility (Core components numbered iv and v) has been discussed in Chapter 3. The researcher chose aforementioned indicators laid down by the UNCTRC as a framework to analyze the Indian law relating to children in conflict with law because the JJA 2015 (also JJA 2000) was passed by the Parliament bearing in mind the standards prescribed in UNCRC (1989) and other relevant international instruments on juvenile justice.²⁷

²⁶ UN Committee on the Rights of the Child (CRC), *General comment No. 10 (2007): Children's Rights in Juvenile Justice*, 25 April 2007, CRC/C/GC/10, available at: <http://www.refworld.org/docid/4670fca12.html> , last seen on 9/04/2018

²⁷ Preamble to JJA 2015 & JJA 2000

In particular, this chapter considers whether the appropriate legal procedures and institutions are in place in India for an effective and fair justice system for children in conflict with law and whether these are in compliance with international standards.

An attempt is also made in this chapter to explore and understand the mechanisms that exist in India to ensure the accountability of all the key actors dealing with children in conflict with law. For this purpose, the researcher, in this chapter has also empirically studied each of the following components of juvenile justice system dealing with children in conflict with law.-

- Police and Juvenile
- Juvenile Justice Board and Juvenile
- Observation Homes and Special home (Probation officers, Rehabilitation and treatment services) and Juvenile.

The empirical/ non-doctrinal study of researcher covers three districts of Karnataka-Bangalore (Urban), Udupi & Dharwad.

Chapter 5- The Study of Legislative Practices concerning juveniles in UK (England), USA, Canada and Norway - aims to explore juvenile justice practices in UK (England), USA, Canada and Norway.

Chapter 6 deals with **summary of the chapters followed by conclusions and recommendations.**

1.9 LITERATURE REVIEW

The researcher has reviewed the following books and scholarly articles in the Indian context as well as selected jurisdictions and has provided useful points of reference. In the present study, the researcher found very few scholarly writings pertaining to juveniles/ children in conflict with law in India. There is no official website specifically dealing with juveniles in India unlike UK, USA and Canada. The researcher opines that there is lack of evidence based research & empirical data in the area of juvenile justice in India. As far as USA is concerned, there are numerous online official websites containing scholarly resources dealing with various aspects of

juvenile justice system such as mental health, adolescent development, sentencing policies, prevention, rehabilitation programs etc. Furthermore, literature on US juvenile justice system is abundant. They provide evidence based study resources relating to juvenile justice in USA. On the other hand, there is limited literature and scholarly internet resource pertaining to juvenile justice in UK (England), Canada and Norway but, their official website gives a valuable insight and adequate information.

Ved Kumari (2017)²⁸ provides a clear understanding of the Juvenile Justice (Care and Protection of Children) Act, 2015 and has commentaries on the key provisions contained in the Act. The author has critically analyzed and interpreted ambiguous provisions of the Act from the child rights perspective keeping in mind the fundamental principles of the Act and international standards. The book points out significant concerns and constitutional challenges in the implementation of the Act. It presents the author's position on various issues and has provided possible solutions for the better implementation of the law. Although, the book is well written, clear and majorly covers the 2015 Act, the researcher is of the view that the discussion of Juvenile Justice Model Rules, 2016 in the text would have broadened the understanding of the new legislation. **R.N.Choudhary (2012)**²⁹ comprehensively covers the Juvenile Justice (Care and Protection of Children) Act, 2000 and provides commentary on the provisions contained in the Act. The book comprises all the significant judgments concerning juvenile justice pronounced by the Supreme Court and the High Courts upto November 2010. It discusses international instruments concerning juvenile justice. One of the notable aspects of the book is the comparative analysis of the Juvenile Justice (Care & Protection of Children) Act, 2000 with its predecessor enactments. **Dr. N.L. Mitra (1988)**³⁰ comprehensively covers Juvenile Justice Act, 1986 by discussing the law, procedure and treatment of juveniles. It also elaborately discusses juvenile delinquency causation and causal phenomenon with reference to the Indian context. In addition to theoretical approach it also examined juvenile crime rates. Another book by **Ved Kumari (2004)**³¹ comprehensively covers

²⁸ Ved Kumari, Juvenile Justice (Care and Protection of Children) Act, 2015- Critical Analyses (1st ed., 2017)

²⁹ R.N.Choudhary, Law relating to Juvenile Justice in India (3rd ed., 2012)

³⁰ Dr. N.L. Mitra, Juvenile Delinquency and Indian Justice System (1988)

³¹ Ved Kumari, Juvenile Justice System in India- From Welfare to Rights (2nd ed., 2004)

(Juvenile Justice Care and Protection of Children) Act, 2000 from the socio-legal perspective. It elaborately discusses the historical, legislative, executive, and judicial processes of juvenile justice in India. *Don Cipriani (2009)*³² provides detailed understanding on one of the most salient and controversial areas of juvenile justice i.e. Minimum age of criminal responsibility (MACR). It discusses international standards on the issue of MACR. One of the significant aspects of this book is the discussion of MACR in the context of children's rights. The author presents the MACR across the globe, including its statutory sources. The book has also explored historical influence of Roman law, European colonial law, Islamic law, customary and religious law systems on the MACR. The author in addition to pointing out the challenges in the application of MACR has also provided key considerations for establishing and implementing MACR's in ways that supports the rights of children. One of the questionable aspects of the book is its silence on the age of criminal majority. *Donald J Shoemaker's (2010)*³³ book comprehensively explains and evaluates major theories of juvenile delinquency. Theories covered in the book include biological and psychological explanations to juvenile delinquency, differential association, drift theory, labeling theory, critical theories and explanations of female delinquency. The book provides a clear understanding to the theories by making numerous references to international examples of the approaches of juvenile delinquency in many jurisdictions. The book has led the researcher to infer that none of the theories is currently totally accepted but the importance of these theories cannot be undermined as various approaches to juvenile delinquency are sometimes derived from these theories. *Juvenile Justice: Advancing Research, Policy and Practice (Francine T Sherman, Francine H Jacobs, 2011)*³⁴ is a compilation of articles by experts in the field of juvenile justice. The experts discuss juvenile justice from the legal and developmental perspective. It presents the empirical experiences of incarcerated children in America. It discusses some promising juvenile justice reforms in many jurisdictions across the United States with special focus on evidence based practices.

³² Don Cipriani ,Children's Rights and Minimum Age of Criminal Responsibility- A Global perspective (2009)

³³ Donald J Shoemaker, Theories of Delinquency: An Examination of Explanations of Delinquent Behaviour (6th ed., 2010)

³⁴ Juvenile Justice: Advancing Research, Policy and Practice (Francine T Sherman, Francine H Jacobs, 2011), John Wiley and Sons, Inc., New Jersey

The expert authors present challenges presently evident in the juvenile justice system in USA and also provide a vision for the future juvenile justice policy. **Gus Martin's *Juvenile Justice – Process and systems (2005)*** provides in depth understanding of the history, philosophy and components of the juvenile justice system USA. Although, the book aims to discuss the juvenile justice in the context of USA, it makes the readers acquainted with the juvenile justice in the contemporary era including the historical origins of modern process and systems. It provides introduction to the fundamental concepts of juvenile justice, theories of causation etc. It elaborately discusses accepted reporting methodologies to measure juvenile deviance in USA such as Uniform crime reports, juvenile court statistics, self reported data, national crime victimization survey etc. In the concluding chapters the author presents juvenile justice in the international context. **James C Howell (2009)**³⁵ provides an in-depth discussion of the designs and plans to address prevent and control juvenile delinquency in USA. It provides a review of effective programs for juvenile offenders in USA. Research based theories and gang involvement are applied to explain juvenile delinquency. The book critically examines in detail the practice of transfer of juvenile to the adult criminal justice system and effects of transfer of recidivism. **Barry C Feld's, *Cases and materials on Juvenile Justice Administration***³⁶ provides a comprehensive casebook on juvenile courts and juvenile administration in USA. It heavily relies on the cases, statutes and articles. ***Restorative Justice Today: Practical applications (Katherine S. van Wormer, Lorenn Walker, 2013)*** provide a compilation of expert articles in the area of restorative justice. The experts discuss variety of restorative practices that could be implemented across the globe. The book discusses use of restorative practices in diverse areas such as domestic violence, sexual abuse, juvenile justice, environmental justice etc. The researcher has specifically focused on Chapter 8 of the book i.e. Youth justice and restorative justice in Norway which is also the subject of this research study. **Clemens Bartollas and Stuart J Miller's book, *Juvenile Justice in America (8th ed.)***, elaborately examines the structures, procedures, policies, and challenges of US juvenile justice agencies. It also presents empirical profile of youth crimes in US, social contexts etc. This book

³⁵ James C Howell, Preventing and Reducing juvenile delinquency: A Comprehensive framework, (2nd ed., 2009)

³⁶ Barry C Feld , Cases and materials on Juvenile Justice Administration (7th ed., 2004), American Case Book series

makes an attempt to comprehensively cover juvenile justice system in USA. In **Trevor Buck (2011)**³⁷ a thorough discussion of international law framework and global initiatives relating to children on various key issues is made. Some of the key issues covered in this book are child labour, Intercountry adoption, parental child abduction, children in armed conflict, sexual abuse etc. The book also makes references to private international legal aspects relating to children. The researcher has relied on the introductory chapters of the book which discusses the developmental psychology of children. The researcher has specifically relied on Piaget's influential theory (1960) of children's cognitive development. The authors have explained the four stages of cognitive development in a very simplistic and clear manner. The Piaget's theory was improved upon in further research to remove some of its weaknesses which is not discussed in the book. The researcher relies on the chapter seven of **W.C. Crain's (1985)**³⁸ book which discusses the American Psychologist, Lawrence Kohlberg's theory of stages of moral development to understand the capacity of children in moral thinking and moral reasoning. The author has elaborately explained every stages of Kohlberg's theory and evaluated the same. Lawrence Kohlberg ascertains that the process of moral development continued throughout the lifespan of an individual.

The researcher relied on some empirical studies to understand the nature and extent of crimes committed by juveniles in India. The case – control study of juveniles in the five observation homes of three cities in India viz. Hyderabad, Lucknow & Pune by **Archit Gupta and others (2015)**³⁹ has assessed the sociodemographic characteristics & aggression quotient of children in conflict with law. The study concludes that the sociodemographic characteristics like broken homes, addictions to substance use & abuse seem to have an interconnection with juvenile delinquency. A research study on children in conflict with law in Delhi commissioned by **Delhi Commission for**

³⁷ Trevor Buck, A Gillespie, L.Ross, S.Sargent, International Child Law (2nd ed., 2011)

³⁸ W.C. Crain, *Kohlberg's Stages of Moral development, Theories of Development*, (Prentice-Hall 1985)

³⁹ Archit Gupta et al, *Sociodemographic characteristics and aggression quotient among children in conflict with the law in India: A case-control study*,28(4) The National Medical Journal(2015), available at <http://archive.nmji.in/archives/Volume-28/Issue-4/Original-Article-I.pdf>

*Protection of Child Rights & entrusted to the NGO butterflies (2015)*⁴⁰ has looked into the efficacy of structure & systems in the Observation Homes & Special Homes in Delhi. The study has also highlighted on the socio-economic aspects of such children & further analysed the factors that could predispose them to criminality. *A cross sectional study of psychiatric morbidity in juvenile boys admitted in an Observation home (2017)*⁴¹ conducted by Bhoge N D and others involved a study sample of 50 boys aged between 6-16 years. It has provided a study on the extent & pattern of psychiatric disorders present in juveniles by using the aforementioned sample. This research has also discussed various studies in India as well as other countries on psychiatric disorders among juveniles. The conclusion & results section present that out of 50 juveniles, 44 of them i.e 88% of them had psychiatric diagnosis. *A qualitative study (2007) was conducted in the Prayas Observation Home, New Delhi* to study the extent of drug use among those boys.⁴² The study conducted the interview of the staff of the observation home & also selected some boys of the home to participate in the focus group interviews. The study concluded that 60%-70% of those boys had addiction to drugs prior to their placement in these homes. Peer pressure was found to be one of the main factors responsible for drug addiction among juveniles.

*Justice V.R. Krishna Iyer*⁴³ has elaborately discussed jurisprudential aspects of juvenile justice. *B.B.Pande (2015)*⁴⁴ has criticised the Juvenile Justice (Care & Protection of Children) Bill, 2014. One of the most controversial areas of the JJ Bill

⁴⁰ *Why Children commit offences-Study on Children in conflict with law in Delhi*, Delhi Commission for protection of Child Rights (DCPCR), (2015) available at <http://www.butterflieschildrights.org/admin/resource/Why%20Children%20Commit%20Offences-DCPCR.pdf>

⁴¹ Bhoge N D et al, *A cross sectional study of psychiatric morbidity in juvenile boys admitted in an Observation home*, 4(1) International Journal of Advances in Medicine (2017), available at <http://www.ijmedicine.com/index.php/ijam/article/viewFile/308/279>

⁴² Chetna Malhotra et al, *Drug use among Juveniles in conflict with law*, 74(4) Indian Journal of Pediatrics (2007), available at <http://medind.nic.in/icb/t07/i4/icbt07i4p353.pdf>

⁴³ Justice V.R. Krishna Iyer, *Jurisprudence of Juvenile Justice: A Preambular Perspective*, available at http://14.139.60.114:8080/jspui/bitstream/123456789/1225/1/008_Jurisprudence%20of%20Juvenile%20Justice.pdf

⁴⁴ B B Pande 'Bad' juveniles and the 'worst' juvenile justice law? *The second challenge to juvenile justice law in Darga Ram v. State of Rajasthan*", 57:1 Journal of Indian Institute (2015)

i.e categorisation of children aged 16-18 years on the basis of heinous offence deserves a special mention here as the author of this article has critically discussed it at length. The author has concluded that the categorisations of children as more vicious and less vicious are constitutionally impermissible and socially undesirable. **Melissa Cashdollar and others (2007)**⁴⁵- This paper critically analyses the Juvenile justice system in India (JJA 2000) by applying the UN policy indicators for an effective system recommended in 2003 known as measurement of juvenile justice indicators. These indicators are provided by the UN office on Drugs & Crime. The indicators are divided into two categories viz. quantitative and qualitative indicators. Quantitative indicators include children in detention, duration of pre-sentence, pre-sentence diversion, aftercare etc. Regular independent inspections, complaint mechanism, specialized juvenile justice system, prevention etc are the qualitative indicators used to assess the Indian juvenile justice system. The article concludes that the assessment of Indian juvenile justice system by the application of the UN measurement of justice indicators demonstrate that the Indian system is functioning on low or moderate levels. The article has provided recommendations for the betterment of juvenile justice system through legislative amendments and implementation initiatives.

The study by **Mark Soler and others (2009)**⁴⁶ discusses the new research and experiences in the US juvenile justice system in the key areas such as evaluation of juvenile rehabilitation and treatment programmes, difference between adolescents and adults, prosecution of youth in adult criminal courts etc. The researcher opines that these areas pose challenges to contemporary juvenile justice system in any jurisdiction. The researcher has relied on this article to understand adolescent brain development and criminal culpability. The authors stress the Government and the adjudicators to consider the adolescent brain development to determine whether a child is competent to stand trial, culpable for crimes and amenable to rehabilitation.

⁴⁵ Melissa Cashdollar, Joy Park, Anthony Plaid and Alison L Stankus, *Advocating for a shift in perspective – An assessment of the Indian juvenile justice system utilizing the United Nations Measurement of juvenile justice indicators* 27 Child Rights Journal (2007) available at heinonline

⁴⁶ Mark Soler, Dana Shoeberg & Marc Schindler, *Juvenile Justice Lessons for a new era*, XVI Georgetown Journal on Poverty law and Policy (2009) available at <http://www.flintridge.org/newsresources/documents/JuvenileJustice-LessonsforaNewEra-2009.pdf>

The article discusses elaborately the impact of adolescent brain science in the landmark decision of US Supreme Court in Roper vs. Simmons in 2005. This internet resource⁴⁷ comprising of papers authored by international experts in adolescent brain development provides a thorough understanding of adolescent behaviour in the light of neurological development. Although, the papers discuss adolescent brain development in the context of adolescent sexual behaviour and pregnancy, the experts stress that neurological development is an important dimension of overall adolescent development. The papers elaborately discuss the development of the region of the brain which is responsible for decision making and impulse control. These new researches lead a reader to conclude that adolescents are not adults and thus are not as culpable as adults. **Laurence Steinberg (2012)**⁴⁸, an eminent Professor of Psychology at Temple University and the former Director of the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, provides a psychological perspective to adolescent's involvement in criminal activities. According to him, most of the juvenile crimes are risk-taking acts which are impulsive & committed without considering its long-term effects. The expert discusses elaborately the structure and functioning of a juvenile brain which is distinct from an adult brain. The expert author urges the collaboration of neuroscientists and scholars from other disciplines to inform the public policy. **Peter Greenwood (2008)**⁴⁹, in this study has identified 'proven' delinquency prevention programmes across the globe and has reviewed the same. The author urges the jurisdictions to develop evidence based practices to prevent juvenile delinquency. Greenwood cites that the home visitation programmes, school based interventions, parenting programmes etc could play a huge role in preventing juvenile delinquency. **Danielle Mole, Dodd White (2005)**⁵⁰, this issue brief discusses the transfer and waiver laws in USA. It summarizes various transfer and

⁴⁷ Weinberger, D., Elvevag, B., & Giedd, J. (2005). *The Adolescent Brain: A Work in Progress*. Washington, DC: The National Campaign to Prevent Teen and Unplanned Pregnancy available at <https://thenationalcampaign.org/sites/default/files/resource-primary-download/brain.pdf>

⁴⁸ Steinberg Lawrence, *Should the Science of Adolescent brain development inform public policy?* 3 Issues in Science and Technology, Spring (2012), available at <http://aja.ncsc.dni.us/publications/courtrv/cr50-2/CR50-2Steinberg.pdf>

⁴⁹ Peter Greenwood, Prevention and Intervention Programs for Juvenile Offenders, Vol. 18, No. 2, *The Future of Children*, Juvenile Justice (Fall, 2008)

⁵⁰ Danielle Mole, Dodd White, *Transfer and Waiver in the Juvenile Justice System*, 10 (Child Welfare League of America Inc., 2005) available at <http://66.227.70.18/programs/juvenilejustice/jjtransfer.pdf>

waiver laws prevalent in all the US States, the policies, and practices, their impact on deterrence and recidivism etc. It also uncovers the myths associated with transfer and waiver laws. It leads to the conclusion that juveniles who are transferred to the adult criminal system and sent to adult prisons have unsatisfactory outcomes than compared to youth sentenced in the juvenile system. A study by, **Richard E Redding (2010)**⁵¹ provides a thorough research on the deterrent effects of transferring youth from juvenile courts to criminal courts. They have provided a time series analysis over the years, 1976-1993 conducted by different researchers.

*This resource*⁵² is the compilation of articles by expert participants presenting the actual situation, problems and future prospects of their country with respect to serious and violent juvenile offenders. The researcher has relied on the first part of this resource material consisting of expert papers on Canadian juvenile justice system and England & Wales. The article mainly discusses the issues in assessment and treatment of serious juvenile offenders. Apart from educational and vocational trainings, the experts have stressed on certain evidence based treatment programmes for serious violent offenders like anger control therapy, gang resistance education and training programme, social competence promotion programme etc. These programmes require cautious selection and efficient training of personnel administering them. A study by **Brandi Miles Moore (2002)**⁵³ focuses on blended sanctions in USA for juvenile delinquents i.e. combination of both the juvenile and adult criminal sanctions. These approaches indicate the shift of juvenile justice system from rehabilitation to accountability. The article discusses and evaluates the five models of blended sentencing practiced in various states in USA. One of the forms of blended sentencing practiced in Texas is that upon sentencing, the juvenile begins the term in Texas youth commission facility and upon attaining the age of 18, the Juvenile court reevaluates the offenders and decide whether to release him or transfer to the adult criminal facility.

⁵¹ Richard E Redding, *Juvenile Transfer Laws : An effective deterrent to delinquency?*, Juvenile Justice Bulletin, Office of Justice Programs, US Department of Justice (June 2010), available at <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>

⁵² United Nations Asia & Far East Institute for the Prevention of Crime and Treatment of Offenders, Resource material Series no. 78, 139th International training course, Profiles and Effective treatments of serious and violent juvenile offenders, available at http://www.unafei.or.jp/english/pdf/RS_No78/No78_00All.pdf

⁵³ Brandi Miles Moore, *Blended sentencing for Juveniles- The creation of third criminal justice system?*, 22 J. Juv. L. 126(2001-2002) available at Heinonline

In Texas many consider this law as an efficacious tool for punishing violent and chronic offenders, while giving them an ultimate chance for rehabilitation within juvenile justice system. A study of Martin *L Frost and Martha E Blonquist (1991)*⁵⁴ focuses on public protection, punishment, justice and accountability. It provides clarity on the concept of accountability w.r.t juvenile offenders. It discusses two different notions of juvenile accountability i.e individual responsibility and punishment proportionate to the offence. The author shed more light on the approaches available to ensure accountability of juvenile offenders. However the author urges the policy makers to develop models keeping in mind the goals and mission of juvenile justice system.

A study sponsored by *U.S. Office of Juvenile Justice and Delinquency Prevention*⁵⁵ provides an in-depth understanding of Serious Violent Juvenile offenders (SVJ) and the type of interventions that could decrease the likelihood of their offending. The study focuses on the following areas-

- a. Development of SVJ offending
- b. Predictors of offending
- c. Preventive measures
- d. Interventions for known SVJ offenders
- e. Policy implications

The study leads to the conclusion that the SVJ offenders are distinct group of offenders who tend to develop various behavioural problems.

The study by, *Bouder, Melanie King & Patricia Torbet (2006)*⁵⁶ discusses juvenile accountability in the context of Pennsylvania juvenile justice system in USA. It requires the juvenile offenders to understand their wrongful behavior and its impact on the victim and society at large, accept their responsibility for causing harm etc. In the year 1995, 1996 and 2000, the Legislature in Pennsylvania incorporated the

⁵⁴ Martin L Frost & Martha E Blonquist, Punishment, Accountability and New Juvenile Justice, 43 *Juv. & Family Ct. J* 1 1991

⁵⁵ Rolf Loeber & David P Farington, *Never too early, never too late: Risk factors and successful intervention for serious violent juvenile offenders*, *Studies on crime and crime prevention* 7, 28 (1998)

⁵⁶ V. Bouder, Melanie King & Patricia Torbet, *Advancing Accountability- Moving towards victim restoration*, 57 *Juvenile & Family Court Journal* 53 (2006)

concept of imposition of juvenile accountability and victim restoration. This article elaborates on the juvenile accountability measures which shall include victim impact statements, restitution, meaningful community services, restorative practices like victim/offender conferencing, group conferencing etc.