

*Evaluating the Age of Juveniles in the Juvenile Justice System of India from a Developmental and Mental Health Perspective*

Priyanka Konsam, Dr. B.R. Ambedkar University of Social Sciences, India

The Asian Conference on Psychology and the Behavioral Sciences 2016  
Official Conference Proceedings

**Abstract**

The current paper aims at evaluating the recent lowering of age of Juveniles (from 18 years to 16 years), who will be tried as adults in the Juvenile Justice System of India, from a developmental and mental health perspective. Based on the study, recommendations to promote mental health of adolescents have been presented. This research draws upon secondary sources including published articles and books on child and adolescent development and best practices in the field, Juvenile crime records of the country and newspaper articles. From a developmental perspective, adolescents are in a transition state and are coping with biological changes at this stage which makes them a vulnerable group. While cognitively they are capable of making more rational decisions, unless they are guided appropriately, they may take wrong decisions and may turn towards risk taking behaviors. The environment including parents and society plays a major role in the positive integration and development of adolescents. It is the interaction of experiences that the adolescent faces and personal factors, which determine the adjustment of adolescents in their society. Therefore, in order to reduce juvenile crimes, the country needs to urgently develop a preventive model which would reach the vulnerable group of adolescents in the country. Hence, while reducing the age may act as a deterrent, the long term solution is prevention.

Keywords: Juvenile justice, adolescent development, juvenile crimes, developmental perspective, mental health

**iafor**

The International Academic Forum

[www.iafor.org](http://www.iafor.org)

## 1.1 Introduction

The current paper has been written in the light of the recent amendment in the JJ act wherein a landmark decision to lower the age of juveniles to 16 has been taken, in cases where the juvenile has committed a heinous crime. This amendment was made as a response to the involvement of a juvenile who was a few days short of turning 18 in the brutal rape of a 23 year old student in the national capital Delhi in the year 2012 and the increasing trend in juvenile crimes in India. There were debates and protests across the country with the punishment the juvenile received due to his age, which as per the JJ Act, 2000 was 3 years in a special home (Sec. 15 (g) of the JJ Act, Amendment, 2006). The juvenile was released recently with a rehabilitation plan which include financial assistance to set up a tailoring shop and frequent follow up (The Times of India, dated 15 December 2015).

The Juvenile Justice, Care and Protection Act, 2015 (referred as JJ Act, 2015 in this paper) came into action on 31 December 2015. This act has made amendments regarding punishment in heinous crimes committed by Juveniles. At the same time it has put forth a progressive and child friendly rehabilitation plan, especially for the juvenile who is 16 years and above. These Sections are mentioned below:

1. Sec. 15(1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of subsection (3) of section 18 (Juvenile Justice Care and Protection Act, 2015)
2. Sec. 18(3) Where the Board after preliminary assessment under section 15 pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences. (Juvenile Justice Care and Protection Act, 2015)

When we say that the child will be tried as an adult, developmentally it implies that the child will be treated as if he/she were an adult which further implies an assumption that the child is functioning as an adult in the case of the crime. Legally, it means that the child will be tried as per the Code of Criminal Procedure (CrPC, 1973) of India and will serve the term as per the punishment given in the CrPC. The only difference being that the child will be tried in a children's court, the rehabilitation of the juvenile would be the primary aim and the child will be placed in a place of safety, instead of a jail with adults.

Therefore the objectives of this paper are as follows:

- a. To evaluate the appropriateness of lowering the age of juveniles to be tried as adults using a developmental perspective
- b. To put forth a few recommendations which can be used in the Indian Context

For the purpose of this paper, the heinous crimes considered are murder and rape. Further, as boys have been found to constitute 46638 of apprehensions and girls only 1592 across age groups (Fig.2.), the focus will be on boys. Secondly, as the age group

under consideration is 16-18, juveniles in this paper will refer to this age group unless otherwise specified.

## **1.2 Adolescents in India**

According to UNICEF, India is home to more adolescents – around 253 million – than any other country. It is followed by China, with around 200 million adolescents.

Adolescent population has increased from 85 million in 1961 to 253 million in 2011 (in five decades), and every fifth person in India is an adolescent (10-19 years) (Census of India, 2011)

As seen in the figures presented, India has a large group of adolescents and it is from amongst this population that some are coming in conflict with law or becoming juvenile delinquents. India is a country with variety of social, economic and health factors which according to UNICEF ‘may undermine the ability of adolescents to lead full and productive lives.’ (UNICEF, 2013)

The stages of adolescence can be divided into three phases; the first is earlier period between the age group of 10-13, the second is middle age between 14-16 years, and the matured stage is between 17to19 years. (Valarsevan & Murlidharan, 2013)

## **1.3 Juvenile crimes in India**

Juvenile delinquency as a concept is not new. It has been present in some form or the other since a long time. Juvenile delinquency or Juvenile crime as it is now known, is a term that defines the participation of a minor in an illegal act (Dey, 2014).

According to Haque (2012), there is a steady increase in the juvenile crimes against total crime in the country. ‘There was a steady decline in early 1990s, static in late 1990s and then again rose significantly in early 2000 and still increasing gradually. It has been observed that children at the threshold of adulthood -in the age groups of 16-18 years are more prone to taking up criminal activities’

There has been an increase in the crimes committed by juveniles in India between years 2004 to 2014, as seen in Fig. 1. As per the National Crime Record Bureau (NCRB), in the year 2014, juvenile crimes constituted only 1.2% of the total crimes in the country. This may seem like a small number, but when we look at the figures, they are alarming.

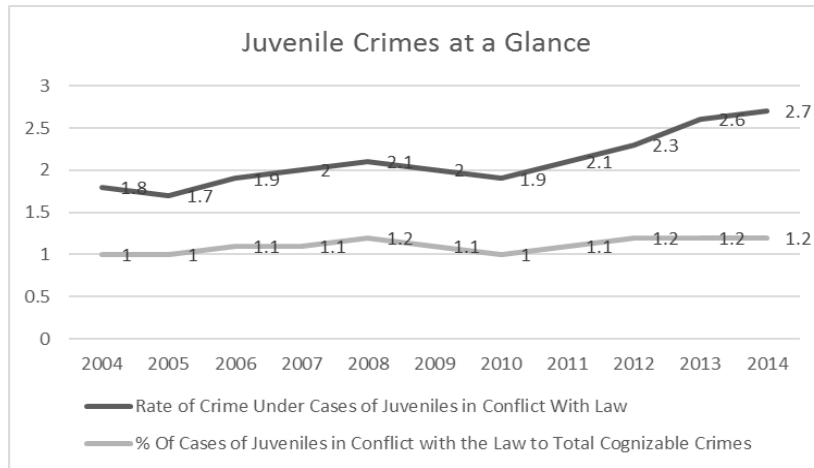


Figure 1: Graph of 2004 to 2014 crime rate from Stats of NCRB

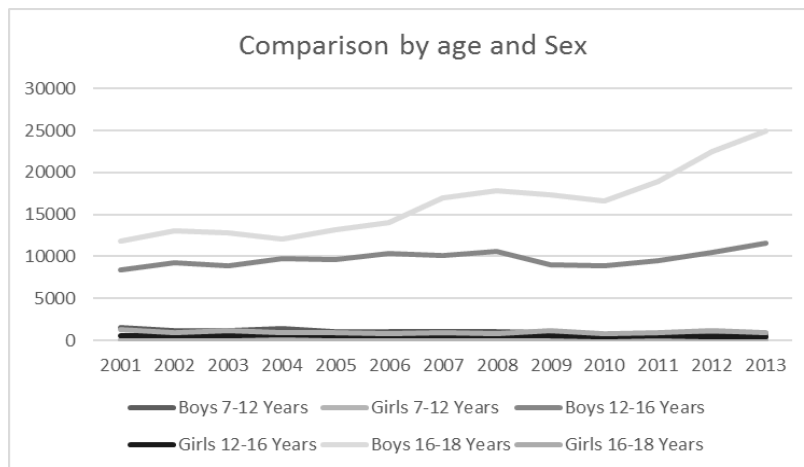


Figure 2: Rate of Crime: Ratio of Juvenile crimes to the population expressed per thousand

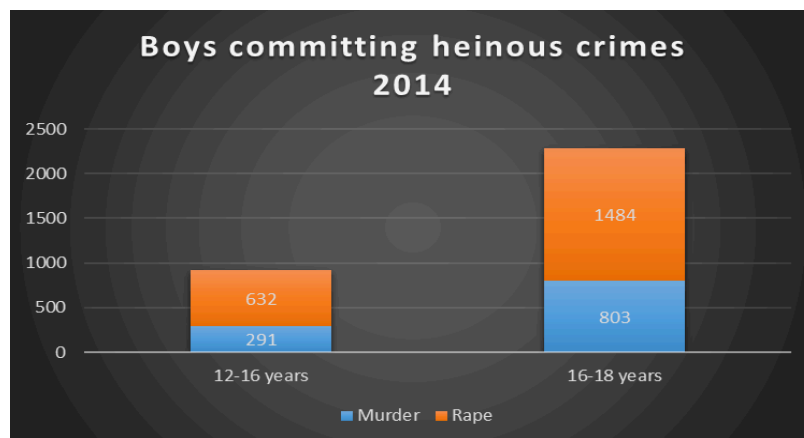


Figure 3: Boys committing Rape and Murder in the year 2014

The percentage of juveniles apprehended under IPC (Indian Penal Code) crimes was approximately 73.7% in the age group of 16 yrs. – below 18 years (31,364 out of 42,566) during 2014. In the categories of heinous crimes, boys in this age group constitutes approximately 70% of the total of all age and sex while boys of 12-16 yrs. constitute 28% of the total (Fig. 3.)

## 2. Developmental Perspective

In today's age, more importance is being given to the contexts in which the child grows, along with his individual factors (Berk, 2013). This also reflects the Nature-Nurture perspective or alternatively the individual and environment. Therefore, it is the belief of the author that in evaluating the age of the Juvenile from a developmental perspective, both the individual factors/nature and the environmental factors are important to understand the problem holistically.

According to Steinberg (2007), "Adolescents, on average, engage in more reckless behavior than do individuals of other ages" and are "biologically driven" to risk-taking, including criminal offending (as cited in Brown & Males, p. 4)

Adolescence is often referred to as a period of transition and "parents play a significant role in the developing of their physical and psychosocial changes" (Valarselvan & Murlidharan, 2013). It is indeed a vulnerable period characterized by the physical changes including hormonal changes, changes in personality and social relationships. It is as Erikson stated, the stage of identity versus role confusion. The way the society including parents, school, neighbourhood respond to the child that will determine what identity the adolescent will assume. The successful transition occurs when the adolescent has had fruitful interactions underlined with encouragement and nurturance (Erikson). This emphasis on the experiences with the society is important when we consider, juveniles, so that one may look into their experiences in the society.

Most adolescents are very likely to engage in risk taking behaviours or anti-social behaviours. According to Scott & Grisso (1997), the tendency to engage in anti-social behavior which is typical in this developmental phase is reflected in their criminal activity. This tendency reduces with maturity. The peer group at this age is one of the important factors that influence the shaping of the adolescent mind. Adolescents may be inclined to follow their antisocial peer who according to them seem to have attained adult like ways (as cited in Scott & Grisso, 1997, p145)

Cognitively speaking, they are now able to analyze situations logically in terms of cause and effect and to entertain hypothetical situations and use symbols, such as in metaphors, imaginatively (Piaget, 1950). Although there are marked individual differences in cognitive development among youth, these new capacities allow adolescents to engage in the kind of introspection and mature decision making that was previously beyond their cognitive capacity (American Psychological Association, 2002)

While it is true that adolescents have developed the capacity, there is a need for some form of guidance or social maturity that is required in order to be able to put to use their capacities at the right time which differentiates them from adults. When it comes to making real life choices, adolescents may lack experience in general and efficiency in processing information (Scott & Steinberg, 2008). Further, according to some studies of the brain processes adolescents differ from adults in the way they process information. (Arredondo, 2003). Adults use their frontal cortex (the center for higher order thinking) while adolescents process emotionally charged decisions in the limbic

system (the seat of emotions). According to Arredondo (2003), ‘chronological age is a poor index of neurobiological and emotional maturity’.

## 2.1 Environmental factors

As stated earlier the environment also plays a significant role in the creation of juveniles who come in conflict with law. While adolescence is a time of tremendous growth and potential, it is also a time of considerable risk during which social contexts exert powerful influences (UNICEF). Sharma et al. (2009, p. 69) divided the factors influencing children’s delinquent behaviours into individual and environmental factors. The individual factors include personality traits like submissiveness, defiance, hostility, impulsiveness, feeling of insecurity, fear, lack of self-control and emotional conflicts while situational factors may be attributed to family, companions, movies, school environment, work environment etc.

The socioeconomic situation of the adolescents need to be taken greater account of when looking towards dealing with such challenges. According to Johnson & Tim, (2015), broken homes, large families, low income, parental incarceration, etc., have been shown to increase delinquency rates.

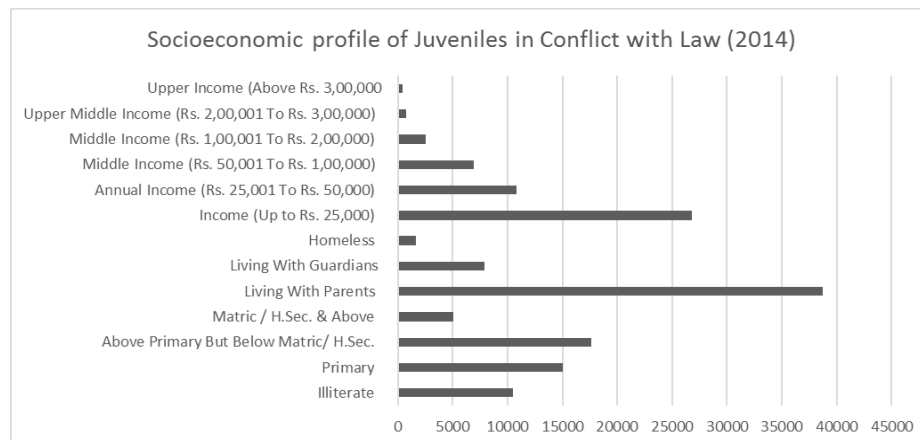


Figure 4: Socio-economic profile of Juveniles in conflict with law, 2014 (Source: National crime Records Bureau (NCRB), India)

Out of total juveniles apprehended (48,230), 10,530 juveniles were illiterate, 15,004 juveniles had education up to primary level and 17,637 juveniles have above primary but below matric/HSC level education during 2014 accounting for 21.8%, 31.1% and 36.6% of total juveniles apprehended respectively during 2014. Out of 48,230 juveniles apprehended, 80.2% juveniles were living with parents (38,693) and 3.4% were homeless (1,632) during 2014. A large number of juveniles (55.6%) belonged to the poor families whose annual income was up to `25,000 only (NCRB, 2014)

One of the important causes in the Indian scenario is the changing traditions. According to Sharma et al (2009), the problems of juvenile delinquency in the developing world are more challenging considering the process of development. According to them, development has brought about a ‘social upheaval’ which has changed the traditional ways of life. The social control system that served as a preventive measure has given way to antisocial activity. It is interesting to note that in a study carried out in the year 1978 it was found that, several socio-economic features

of Indian society, such as the interpersonal ties of family and the social requirements of an agrarian-scarcity economy acted as protective factors against delinquency (Hartjen, 1982). This study demonstrates that the changing socio-economic fabric has a role to play in juvenile delinquency.

A large number of apprehended juveniles (80.2%) were living with parents as per the figures, this leads one to think of the possible family dynamics leading children to come in conflict with law. According to a report, Juvenile delinquency in India is increasing specially in the children of lower economic groups who live in the slums. These children come in contact with antisocial elements in the absence of their parents who are out of the homes for jobs and are not available to provide care and nurturance. (Tiwari, 2014). According to the World Youth Report, United Nations (2003) children parental supervision is an important factor, 'children who receive adequate parental supervision are less likely to engage in criminal activities. Dysfunctional family settings—characterized by conflict, inadequate parental control, weak internal linkages and integration, and premature autonomy—are closely associated with juvenile delinquency' highlighting yet again the importance of the family environment in shaping juvenile delinquents.

Another cause for concerns is the age group of 7 to 12 and 12-15, they are the preadolescent and early adolescent groups. As per the latest NCRB (2014) figures, children in the age group below 12 committed 19 murders and 23 rapes while the highest figures were in theft (249) these figures are for both boys and girls. What happens to them after they are let off or are placed in special homes? The maximum period they can stay for is 3 years, which are crucial years of the child who is at the prime formative years. At such an age, family, community and a sense of belonging are important to foster. Studies have reported that children in this age group have higher chances of becoming adult criminals. According to Scott & Grisso (1997), 'Youths who offend at a younger age (and who are thus less mature and less culpable) may be more likely to become adult career criminals than teens who first initiate even serious antisocial behavior in mid-adolescence or later.' Thus, there is a more pressing need to focus on this age group of children and to carry out research in recidivism amongst children in conflict with law in India.

### **3. Mental health perspective**

Keeping in mind a mental health perspective, this paper looks at the provisions in the act, for the pre-trial, trial and rehabilitation of the juveniles (16 and above) who are found guilty of crime. The laws under the new Juvenile justice act, recommends the following for trial of a child as an adult:

1. Assessment of child (Section 15(1) of the JJ Act, 2015)
2. Trial in children's courts (section 18 (3) of the JJ Act, 2015 )
3. Rehabilitation in the place of safety following which the child may be transferred to Jail after 21 years of age. (Section 19 (3) of the JJ Act, 2015)

The concerns arising here are the lack of infrastructure which has led to the failure in efficient implementation of the previous act. There are few qualified counselors and psychologists across the country. The National Commission for Protection of Child Rights(NCPCR), (Ministry of Women and Child Development, India)in their recommendation stated that there is a general lack of institutional infrastructure and trained manpower. Further, assessment of children poses a problem as there is no

standard to determine such facts compounded by the lack of trained professionals (NCPCR). Children Courts have not been set up in most districts which further lead to the question about the appropriate implementation of the Act, which in turn may expose the juvenile to an adult justice system. For the rehabilitation, the Act has mentioned generic techniques, and is depending yet again on the professionals. However, there are no evidence based practices for the rehabilitation of juvenile delinquents in India. Thus, while, the provisions in the Act appear to be well thought of, the loopholes may pose a threat to the overall rehabilitation of the juvenile offenders in the country which is a cause of concern.

#### **4. Way Forward: Prevention**

Considering the rise in crimes committed by adolescent who as this paper has shown, are a vulnerable group, and keeping in mind the possible loopholes in the implementation of the JJ Act, 2015, there is a need to focus on prevention. Further, as per population predictions, the youth population is set to rise. According to Jayaraman (2012), the youth population of 15-34 is likely to increase to 464 million by 2021. The population is continually concentrating in urban areas. This trend is set to continue, according to Bhat, 2001. According to his projection, 'By 2025, about 40 percent of India's population is expected to be urban.'

Juvenile crime in urban areas in India rose by 40% between 2001-10 (DNA, India). Interestingly, Jayaraman states in her paper that the youth population accounts for 35 percent of the urban population in India.

According to WHO, 2006; Guerra, 2005; Schweinhart, 2005; Levitt, 1998; (in UNODC & World Bank, 2007, p. 61). "the earlier the investment in an individual, the greater the chance that violent behaviours can be prevented through adulthood, and the more cost effective the investment" (cited in UN Factsheet on Juvenile Justice). The Riyadh Guidelines (United Nations, 1990) also emphasize the role of prevention to deal with Juvenile delinquency. Therefore, this paper would like to point towards the prevention model in order to deal with this situations

#### **4.1 Recommendations**

One way would be to identify 'at risk children' in the urban slums and rural areas. The role of NGO's will be of importance here. Creating a profile of identified children focusing on their risk factors and protective factors. This followed by an attempt to work on the protective factors by working with the family and community could be planned. Some of the ways to increase protective factors suggested in the New York State Juvenile Delinquency Prevention Program (NYJDPP) (2000) are 'use of mentoring programs, organized family activities, community volunteer opportunities, and academic tutoring.' The need to work on protective factors is that it helps develop the child's resilience. Some of the other ways recommended by them are enhancing the living environment through inculcating positive interactions within the family and society, encouraging on strong bonds within the family and also creating attachment in the community (Fact Sheet,NYJDPP).

Some of the recommended practices are as follows:

### 1. Working with the family

The family plays an important role in prevention of juvenile delinquency. Family is the first institution of socialization. In India, the family is an important institution much into adult life. According to UNICEF, in the United States, when parent management training was provided to the parents of problem children aged 3-8 years, the children fared far better than those in a control group assigned to a waiting list for the program. According to Greenwood (2008), programs that put emphasis on family interactions, and providing skills to the adults to supervise and train their children are more successful.

### 2. Community based programs

Prevention programs can reach the community in various ways. The Community could focus on keeping the adolescent population away from the juvenile justice system. (Greenwood, 2008). Community based programs like recreational centers, support services to respond to problems of children and family, community development centers are recommended by the Riyadh Guidelines. Monthly meetings with at-risk children and families could be one other way (Greenwood, 2008). The children who are released after trial, or other at risk children may be involved in community work with some reinforcement provided for their work.

### 3. Life skills and recreational activities

Recreational activities are a way to engage the youth. This is also emphasized in the Riyadh Guidelines: "A wide range of recreational facilities and services of particular interest to young persons should be established and made easily accessible to them". According to UNDESA (2003) in the United States introduction of basketball programs for adolescents resulted in 60 per cent decrease in crime rate (cited in UN Fact sheet on Juvenile Justice)

## **5. Conclusion**

There is an increasing trend in the crimes committed by juveniles in India. It is clear from various research studies as well as theoretical perspectives that the age group of 16-18 is also a period of adolescence and hence a vulnerable period. Adding to that, the environmental factors, and socio-economic factors play a significant role in the forming of a child who comes in conflict with law. Therefore, while lowering the age may act as a deterrent, it is not developmentally appropriate to try a child in the age group of 16-18 years as an adult.

However, the act has taken these two into account and it now depends on the implementation of the provisions of the act that children in this age group receive full justice keeping in mind their developmental level. For this to happen there would be tremendous effort required by the states to develop infrastructure and human resources to provide the services, without which the child could be exposed to negative experiences. The population of adolescents is set to rise, and with the increasing trend of juvenile crimes it is likely that there will be an increase in juvenile crimes in the current context of urbanization and modernization. These, and the fact that concrete data shows that majority of juveniles come from low income families, there is a need for the country to take up a prevention approach more seriously and research needs to be conducted on the most suitable and effective prevention strategies. The method of identifying risk and protective factors after forming a

profile of the child would help in planning appropriate interventions. As the family is an important element, especially in the Indian Context, one of the methods that can be tested is the functional family therapy. Therefore, the two pronged approach that is the need of the hour are 1. Strengthening of the Infrastructural and human resource for the effective implementation of the Act, 2. Looking at prevention approaches specifically targeting at risk children (including children in the age group 7-12 years)

## References

American Psychological Association. (2002). *Developing adolescents: A reference for professionals*. Washington, DC.

Arrendondo, D. E. (2003) . *Child development, children's mental health and the juvenile justice system: Principles for effective decision making*. *Stanford Law and Police Review*, 14.1, 13-28)

Bhat, P. N. Mari. (2001). *Indian demographic scenario, 2025*. Institute of Economic Growth

Berk. L. E. (2013) . *Child Development (9<sup>th</sup> ed.)* . New Jersey, NJ. Pearson Education

Brown. E., Males. M. (2011). Does age or poverty level best predict criminal arrest and homicide rates? A preliminary investigation. *Justice Policy Journal*, 8 (1).  
Census of India, 2011

Dey. M. (2014) . *Juvenile justice in India*. *International Journal of Interdisciplinary and Multidisciplinary Studies (IJIMS)*, 1 (6), 64-70.

Boga. D. (2013, April 20). 40% rise in juvenile crimes in Indian cities: report. DNA (India). Retrieved from <http://www.dnaindia.com/india/report-40-rise-in-juvenile-crimes-in-indian-cities-report-1824908>

Hartjen. C.A. (1982). *Delinquency, development, and social integration in India (Abstract)*. *Social Problems*, 29(5), 464-473.

Haque. N.U. (2012). *Juvenile justice system and delinquency in India*. Retrieved from <http://www.legalservicesindia.com/article/article/juvenile-justice-system-&-its-delinquency-in-india-1031-1.html>

Jayaraman. A. (2013), *Demographic Overview, State of the Urban Youth 2012*, 7-14

Johnson. O. , Tim. A. (2015). *Juvenile delinquency and future implications for American youth and society*. *Journal of Law Enforcement*, 4(3)

National Crime Records Bureau, 2014

New York Juvenile Delinquency Prevention Program, Fact Sheet, 2013

Scott. S. S.,Grisso. T. (1997). The evolution of adolescence: A developmental perspective on juvenile justice reform, *journal of Criminal Law and Criminology*, 88(1), 137-189.

Sharma B. R., Dhillon. S., Bano. S. (2009). *Juvenile delinquency in India – A cause for concern*. *Journal of Indian Academic Forensic Medicine*, 31(1), 68-72.

The Times of India, dated 15 December 2015

Tiwari. J.K. (2014). Trends towards juvenile justice in India. Legal Express: An International Journal of Law, 1(1)

United Nations. (2003). World youth report, 188-206

UNICEF (2013). Adolescents in India

Valarselvan. M., Muralidharan. K. (2013). Theoretical Insight on the Socio-Emotional State of Adolescents . Language in India. 13(4), 269-277.

**Contact email:** priyankakonsam@gmail.com