

TO DO RESEARCH ON THE HISTORICAL CONTEXT OF THE JUVENILE JUSTICE SYSTEM

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ABSTRACT

This is a good turn of events since, as a result of the suggestion made by Justice Verma's Committee, several historic law amendments have been implemented to safeguard women and children from all sorts of exploitation, sexual assault, and physical abuse. The topic of "juvenile delinquency" has been given a considerable amount of attention in the talks over the country's criminal legislation. The Juvenile Justice (Care and Protection of Children) Act, 2000 was passed into law to protect the rights of children and outlines the procedures that must be followed in the event that a child is in legal difficulty. This act was created in the year 2000. The rights of children and teenagers were given an additional layer of protection with the passage of this legislation. The regulations that regulate minors are driven by a concern for both the individual and the national destiny of those under the age of 18. Young people have a number of essential roles to play in society, including safeguarding humanity's existence and ensuring the nation's continued existence.

Keywords: Historical, Juvenile Justice System, women and children

INTRODUCTION

The idea of "juvenile rights" may be a very fresh historical notion when seen in the context of law and order that is enforced by the government. In the contemporary United States of America, the Constitution affords protection to minors in exactly a comparable way as it affords protection to adults who are presented with severe claims. For instance, in 1993, a young woman was found to have committed herself in her home after becoming quite stressed and cutting herself. The homicide took place in Cook County, which is located in Illinois. A little child of recent birth who is referred to as an associate nurse in the court papers. To anticipate his disposition, he was tried as a juvenile heretic, but the judge who presided over his case found him to be trustworthy despite being accused of first-degree murder. A.M. was given a sentence of only five years of probation since he was ready as an Associate in Nursing Juvenile when the court heard his case.

A.M. was granted release when a petition for habeas corpus was submitted on his behalf, despite the fact that this sentence showed clemency for such a heinous conduct. The fundamental argument in support of this claim was that the authorities violated A.M.'s constitutional right to be free from wrongful inculcation by failing to read him his Miranda rights until after the defendant had acknowledged to using physical force on the victim. Once A.M. acknowledged to the crime, the court ordered in advance that he be considered "in care" and that he thus qualified for Miranda Protections.

The only place for juvenile justice was inside the more comprehensive framework of the The vast majority of cultures just dealt juvenile criminals inside the same method as deviant adults. There are few examples of juvenile-focused norms of justice that date back to the distant past; nevertheless, these examples are quite limited. Even in communities that acknowledged the unique place that children occupy in society, adults and children were subjected to the same types of sanctions.

Only after hundreds of years of human civilisation did what we now refer to as juvenile justice begin to evolve outside of the framework of adult criminal justice. Therefore, the idea of encouraging a certain kind of justice prevaricator in children and adolescents may be considered a novel development in the annals of both the history of civilization and the management of justice.

Juvenile History in Early Period

In prehistoric times, communities were based on social groups and were tied by traditions. These societies also had primitive management principles that were used to preserve cluster cohesiveness, promote order, and reprimand those who broke the rules. These norms of management weren't "laws" in the same sense that electronic equipment judicial codes are, in addition to different kinds of punishments like confinement and banishment, victims were allowed to actualize revenge against attackers and other transgressors under this concept. vengeance is still often practised in a very wide variety of countries; for example, in the United States, the basic premise of "retribution" and "just deserts" forms of criminal penalization are based on the concept of vengeance.

Ancient Babylon

Approximately 4,000 years earlier, at some point around 1750 n.c.k., King I limanntabi of The customs of ancestors were supplanted by the rules codified in the Code of Hammurapi, which also united the several laws that governed common forms of social communication, such as marriage, inheritance, and contracts. For degenerate behaviour, severe penalties were required, and in most cases, caning, expulsion, and death were the only options available for dealing with the perpetrators of criminal and sensible offences. These sanctions indicated the Nation's usage of the "law of placing back." A tooth for a tooth, an appendage for an appendage, and a tit for a tat are all examples of the kinds of injuries that might be caused by the curse that was decreed by Lex Talionis. The purpose of enforcing these standards equally on all or any persons within social chains of command was the driving motivation for Hammurabi's Code as well as several judicial systems that obtained lex talionis. This implies that the most powerful people in each group will be subjected to the same sanctions as the weakest people in that category.

The Code of Hammurabi not only consolidated advanced processes for marriage, constancy, and family commonality in the Babylonian social structure and the treatment of children, but it also did so by assigning the relation as the indisputable head of the extended family. In addition, the Code of Hammurabi consolidated advanced procedures for wedding. Children,

that is, the posterity of a freeman's partner, mistress, and slave tend to remain under their father's control until they are freed by marriage. Childs were Associate in Nursing augmentation of their male parent, with the purpose that the male parent may contract out a Child's labour, Childs would he be able to beholden to others for his or her dad's commitments, or he may relocate them. In addition, Childs would he be able to beholden to others for his or her dad's obligations. Young women may be surrendered by their fathers to serve the heavenly creatures in sanctuaries, or they can be handed away as mistresses, and there is no recourse available for either option. Young guys were necessary in order to demonstrate trustworthiness and awareness to the daddy throughout the very painful process of, for example, removal. One of the examples that the Code provided was as follows: "If a child strikes his male parent, one can cut Millis hands."

OBJECTIVES

1. The Study Research on The Historical Context of The Juvenile Justice System.
2. The Study Including Safeguarding Humanity's Existence and Ensuring the Nation's Continued Existence.

RESEARCH METHODOLOGY

According to the review of the relevant literature (Chapter 2), there is a significant body of vast and varied publications, research, and recorded work revolving around the subject of juvenile delinquency and offending. In Chapter 2, we looked at a variety of literature on a variety of topics, including the theoretical foundations of juvenile delinquency, the variables that contribute to juvenile delinquency, and the rehabilitation process. In addition, These studies have sought to demonstrate causal links between the different factors. Studies that aim to predict the future have looked at the connections between a variety of factors and criminal activity. Several ideas about adolescent delinquency have been subjected to empirical testing, and the outcomes of these studies have yielded valuable insights. The current focal areas that have been apparent over the course of the literature study are capable of being categorised into the groupings that are listed below (Table1):

Table 1 Study Areas Currently Under Investigation That Have Been Found Through Literature Reviews

Area of Investigation	Research Focus
Individual	Age, heredity, and gender are all elements that contribute to delinquency.
Environmental Factors in delinquency	Problems at home, unrest in the neighborhood, a precarious social condition, and intense peer pressure at school and in the community all play a role.

Individual-Environment Interaction	Interaction between genes and environment, effect of family and community, and the value of social relationships for each individual child are some of the topics that will be covered.
Juvenile Justice system	Strategies as well as Limitations
Rehabilitation	The Procedures and the Outcomes

Therefore, prior studies have focused on several facets and dimensions of adolescent delinquency and offending. This investigation was conducted with the goals of both contributing to the existing body of human knowledge and generating novel perspectives on the phenomenon of juvenile delinquency. Despite the fact that the location under examination was comparable, the contextual concerns were generally different. The purpose of this study is not to investigate or speculate on the factors that lead to criminal behaviour. Rather than that, it dives into the complex lives of juvenile offenders, profiles juvenile criminals as a group, and conducts an analysis of the overall demographics of juvenile offenders in order to make recommendations for reform. It is possible to do research on the implementation of the juvenile justice system in the setting of India; however, there are comparatively less investigations that concentrate exclusively on juveniles in confrontation with the law, particularly rehabilitation. The purpose of the research is to contribute to the expansion of knowledge in this field.

Theoretical And Conceptual Framework

Following the completion of the literature review, the conceptual framework for the research was developed. According to the findings of the literature study, juvenile delinquency and offences have several dimensions, and there is a complex interaction between a number of variables operating at the level of the person, the family, the neighbourhood, the community, and society. This research was conducted with the intention of understanding the overall socio-economic and familial profiles of adolescents who were involved with the juvenile justice system. This information was then intended to be generalised to the general community. At the same time, one of the primary goals was to get a better understanding of the children's living circumstances and the environment in which their behaviour occurs. The purpose of this was to grasp the child's perspective on the events that led up to the "charges" that were levelled against them for the transgression. Understanding the viewpoints of are all made possible by the conceptual framework that is shown in Figure 1 below. According to the orientation of the investigation is determined by the conceptual framework.

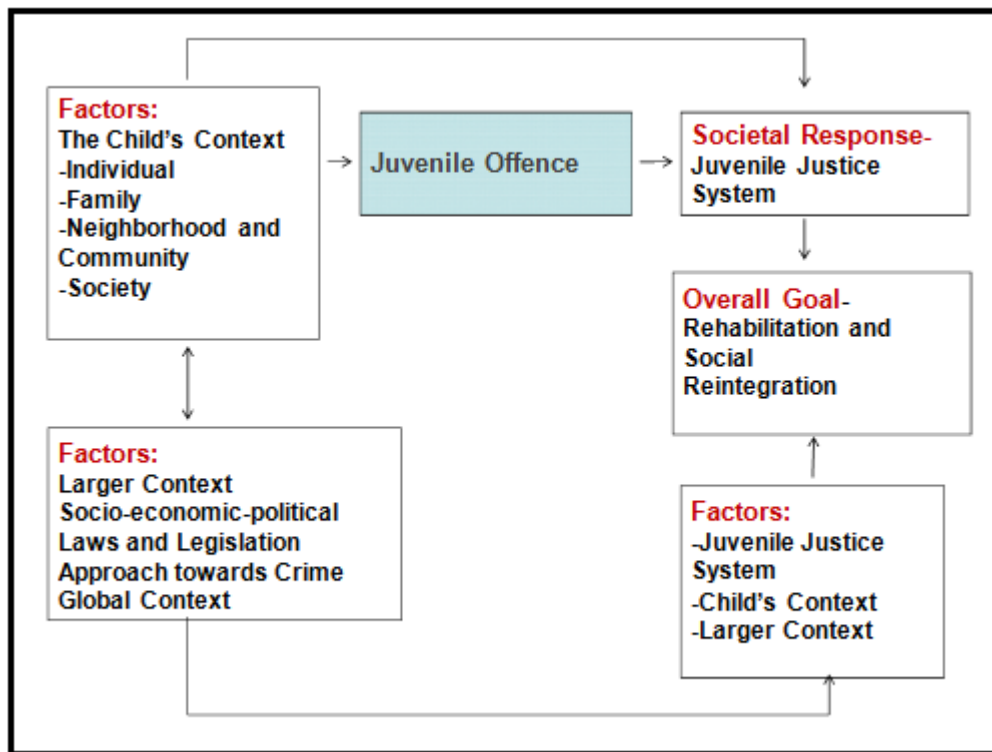


Figure 1 Research project's conceptual plan

The aforementioned conceptual framework, which can be defined as The findings of the literature review, the researcher's prior knowledge and competence in the subject, and the researcher's construction of a working hypothesis are the three main components that went into the construction of the working hypothesis. The paradigm places a greater emphasis on the child as well as the youngster's subjective experiences as contributing elements to the development of juvenile delinquency. surroundings, as well as the wider overarching social backdrop that has an impact on the individual components. Both of these groups of elements are continually engaging in conversation with one another. In addition, the establishment of the juvenile justice system as a reaction to the problem of juvenile delinquency was the social response to the issue.

The primary objective of the juvenile justice system is the rehabilitation of juveniles who have broken the law. Again, this reaction is dependent on a variety of circumstances, including the attitude of the society towards juvenile crime, the rules and regulations of the location, and the greater context of the world at large. With the formation of the juvenile justice system, it is expected that all issues connected to juvenile crime would be adequately handled. This expectation is based on the fact that there is an expectation. In addition, in order for the juvenile to successfully complete rehabilitation and social reintegration, he or she must return to the same environment from which they became a law-breaking juvenile. When attempts at rehabilitation are unsuccessful, this might lead to changes in applicable legislation as well as the structure of by itself, the system for dealing with juvenile offenders. Numerous nations have adopted a "get tough" strategy toward juveniles as a result of what is believed to be the juvenile justice system's inability to adequately deal with all juvenile

offenders. Countries that fall within this category include the United Kingdom and the United States, amongst others. Even on the administrative side, the juvenile justice system does not work in a sterile environment.

The Study Unit and Additional Study Areas

The conceptual framework and the results of the literature analysis have determined that the primary focus of this investigation will be on adolescents in legal trouble. The processes that are associated to the juvenile, both in terms of their daily condition as well as the accusations they face, covered.

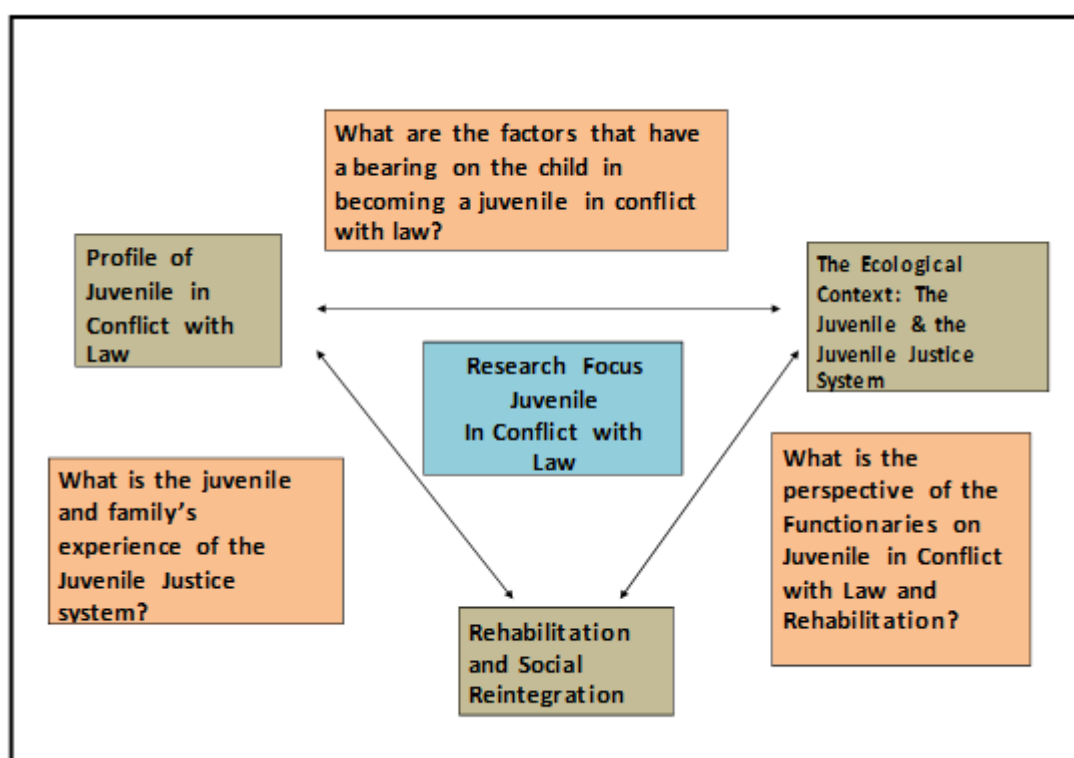


Figure 2 Finding the Study Unit

Locating The Study Within the Theory

Life Course Theory, the Risk and Resilience Framework, and the Ecological Perspective (also known as the Life Course Viewpoint) play a significant role in guiding this research. They are all intertwined with one another in very tight ways. The analysis of the relevant literature makes it abundantly evident that the majority of the time, a combination of elements that are present within the family as well as in the environment may have an effect on children and lead to circumstances that include delinquency or crime. As a result, the ecological approach, which is one that looks at the dynamics of both the family and the environment, was shown to be important for an investigation into the nature of this phenomenon. In addition, since the research was conducted on children, it was deemed essential to investigate the "risk" factors

that might prevent a kid from reaching his or her full potential in terms of growth. During the course. In conclusion, a review of the relevant literature reveals that there is no one route that leads to criminal or antisocial behaviour. According to Shaffer and Kipp (2010), children and adolescents are products of the historical epoch in which they were born as well as the sociocultural setting in which they were raised. The Life Course Theory was selected as the best applicable theoretical framework for this investigation since it is an interdisciplinary model that encompasses many aspects of both individual and societal life. According to Mitchell (2003), the method known as "Life Course" draws attention to the significant relationship that exists are lived out.

DATA ANALYSIS

When children's rights and the law are in conflict, a variety of difficulties come to the surface. These issues include concerns relating to the appropriate rehabilitation of children and effective means of ensuring their rights by protecting children from violence, abuse, or exploitation. It is of the utmost importance to be able to stop them from committing crimes again and to steer juvenile offenders away from the formal procedures of the criminal justice system. This may be accomplished by providing the necessary intervention, ensuring that correctional facilities are functioning, and ensuring that laws pertaining to juvenile offenders are properly implemented.

The process of rehabilitation has an additional responsibility to preserve the rights of Every kid who breaks the law has certain rights, including the right to be treated with humanity, the right not to be subjected to punitive measures, and the right, in the event that the child is detained as a juvenile offender, to be kept apart from adults who have committed crimes. In addition, a child who is in trouble with the law has the right to get free legal representation; regardless of the nature of the crime, a juvenile offender has the ability to post bail and be freed after providing a recognisance bond. This kind of criminal has the right to privacy, the right to have their sentence automatically suspended, the right to be placed on probation, and the right to have the proceedings remain private. The following is an expanded explanation of the issues:

Rehabilitation

Involving children in the process of rehabilitation rather than just seeing them as "troublemakers" or "problem children" who need discipline is the most successful method to discover This approach is also the most humane way to address the issue of children's participation in illegal activities. A significant step in the correct approach is recognising and respecting their human rights as well as understanding that they are children. As a result, the criminal justice paradigm of punishment is removed from the realm of juvenile justice. It acknowledges that there is a risk that connection with adult offenders would have a detrimental impact, and as a result, it places an emphasis on separating them in order to provide room for a greater possibility of reformation for children and to offer adult offenders space where they can explore their capacity for positive growth, learning, and development. Children who are Institutionalization is only used as a last resort and for as little of a length of

time as feasible until appropriate community-based alternatives can be discovered for the individuals who have been found guilty of a crime; offenders who have been found guilty are first exposed to a range of community-based reformatory and rehabilitative procedures. The Department of Juvenile Justice rehabilitates juvenile offenders via the application of this approach to rehabilitation.

Juvenile Justice (Care and Protection of Children) Act, 2015 in Table Below:

<u>The JJ Act 2015</u> provides for the care, protection, development, treatment, and social re integration of children in addition to the rehabilitation of such children through the procedure that is given as well as the institutions and bodies that are formed under the Act. This may be accomplished by taking an approach that is child-friendly and resolving issues in a way that is in the children's best interests.	
The JJ Act also divides offenses committed by juveniles into the three categories that are detailed below.	
1. Petty offences	According to Section 2 (45), "petty offences" are any offences for which the maximum punishment under the Indian Penal Code or any other legislation for the time being in effect is imprisonment for a period of up to three years. This definition may be found in both the Indian Penal Code and any other legislation for the time being in force. This applies to any other laws that are currently in force at the same time as well.
2. Serious offences	Serious offences as defined by Section 2(54), offenses that are punishable by a jail sentence of three to seven years under the Indian Penal Code or any other legislation that is currently in force;
3. Serious offences	Serious offences offenses that are punished by a jail sentence of three to seven years under the Indian Penal Code or any other legislation that is presently in force, as described by Section 2 (54); crimes that are punishable by death under the Indian Penal Code.
4. Heinous offences	Heinous offences includes crimes for which the minimum period under the Indian Penal Code or any other legislation that is now in force is seven years or more in prison, as defined by Section 2 (33); includes offenses for which the maximum sentence under the Indian Penal Code or any other law that is currently in effect is death.
Determination of age	

The Juvenile Justice Act of 2015 made it possible for adolescents between the ages of 16 and 18 who were accused of committing severe offenses to be prosecuted as adults. This calls for a distinct approach to recuperating and rehabilitating these young people, which is necessitated by the situation. It is essential, after a juvenile offender reaches the age of 21 to set criteria for assessing the extent to which he or she has been rehabilitated. This will help lessen the likelihood of bias or prejudice in the course of arriving at a choice. In addition to this, the Act lays a significant emphasis on the idea of restorative justice, which is not to be mistaken with the notion of criminal justice. If a Board is satisfied after an investigation that a child, regardless of age, has committed a petty offence, a serious offence, or a child below the age of sixteen years has committed a heinous offence, then notwithstanding anything contrary contained in any other law for the time being in force and based on the nature of the offense, the specific need for supervision or intervention and the circumstances as brought out in the investigation, the child may be placed under the supervision of the State social investigation, the Board may impose such supervision or intervention as

(a) After the child has been counseled or advised, and after performing the appropriate interviews with the child as well as his parents or guardian, the child should be allowed to go back home.

(b) Encourage the child to participate in group therapy and other activities of a similar nature.

(c) charge the juvenile with community service to be completed under the supervision of a recognized organization, institution, or individual(s) or group(s) approved by the Board; charge the minor with having their privileges suspended;

(d) levy a monetary fine on the juvenile, as well as his or her parents or legal guardian depending on the circumstances: The provisions of any applicable labor regulation for the protection of children in the workplace can be respected, provided that the youngster is working.

according to the most recent available information;

(e) order the child's release on good behavior probation and placement with any parent, guardian, or fit person, with or without surety, for any term not to exceed three years, subject to the signature of a bond for the child's good behavior and well-being for any period not to exceed three years; order the child's release on good behavior probation and placement with any parent, guardian, or fit person for any term not to exceed three years; order the child's release on good behavior probation and placement with

(f) order the child's release on the condition that they maintain a good conduct probation and placement in an appropriate institution for the term of the child's probation, which may not exceed three years;

(g) order the placement of the child in a special home for a certain amount of time (not to exceed three years) for the purpose of providing educational, vocational, therapeutic, and psychiatric services for the purpose of reforming the child's behavior; With the provision that the Board may send such child to the place of safety if the child's conduct and behavior have been such that it would not be in the interest of the child or in the interest of other children place the child in a setting where they would In the event that the actions and actions of the kid

If the Board issues an order in accordance with clauses (a) to (g) of subsection (1), it may also issue orders requiring the child to do one of the following: (i) attend school; (ii) attend a vocational training center; (iii) attend a therapeutic center; (iv) be prohibited from visiting, frequenting, or appearing at a specified place; or (v) participate in a de-addiction program. The Board is authorized to make these directives in any combination it deems appropriate.

Power of Board and Rehabilitation

(3) The issue may be transferred to the Children's Court that has jurisdiction over the alleged offenses if the Board concludes in its preliminary assessment under (section 15) that the prosecution of the child as an adult is required. This might happen if the Board decides that it is necessary to prosecute the minor as an adult. Only the two orders that are indicated as 1 and 2 in (Section 18) above are eligible for the restorative approaches and long-term rehabilitation that are described above.

Rehabilitation

Rehabilitation

Shift their attitudes from need based approach to rights based approach while rehabilitating children in conflict with law

Strategic interventions are aimed to improving the rehabilitation process , Prevention of juvenile crimes

Focus Of Rehabilitation

Addressing all the needs of a child's life: emotional, physical, relational, intellectual, creative and spiritual

The Care and Protection of Juvenile Offenders and Their Opportunities for Rehabilitation Act of 2015

The method of rehabilitation involves the participation of a variety of experts in their fields. These skilled workers have a constrained amount of time in which they must complete this challenging assignment. Every one of our strategic interventions is geared towards one goal: enhancing the process of rehabilitation for juveniles who have been in legal trouble. It is vital to design a multi-dimensional strategy in order to ensure the effective rehabilitation and reintegration of children who have been in confrontation with the law. The prevention of adolescent offences and the implementation of appropriate interventions at the appropriate times may assist to boost the rehabilitation process. A child's emotional, physical, relational, intellectual, creative, and spiritual needs should all be addressed as a priority in order to best meet their requirements throughout their life. When working to rehabilitate children who have been in dispute with the law, it has been noticed that individuals should transform their mentality from one that is focused on needs to one that is based on rights.

CONCLUSION

It is imperative that juvenile offenders be eradicated from society; in order to accomplish this goal, the Act must be efficiently implemented, and awareness must be encouraged. The goal of the system's important players, such as the police, should move from punishing adolescents who are in confrontation with the law to rehabilitating them. This shift in strategy and mentality is necessary. Peer pressure, physical infirmity, a desire for adventure, and dissatisfaction with schooling are all elements that may contribute to juvenile delinquency. Juvenile delinquency can also be induced by social, biological, physiological, and psychological causes, as well as other variables. The role that society plays in the life of a kid is quite significant, and the family is the first social unit with which a child interacts. This makes the function of society very important. Every single thing that a young youngster learns in the early stages of his life comes solely from his family.

REFERENCES

1. See King, Lw. (1910-1911), The Code of Hammurabi. With commentary from Charles F. Home Ph.D. (1915) and Rev. Claude Hermann Walter Johns, M.A., LitLD. Encyclopaedia Britannica (111 ed). Chicago: Encyclopedia Britannica.

2. Mays, L.G., &. Winfree, T.,Jr. (2000), Juvenile justice (p.32). Bostan: McGraw-Hill
3. See Watson, A. (1970) the laws of ancient Romans. Sallas, TX; Southern Methodist University Press. 34 Law 1 (the Patria Potestas), 'Vale IV, Concerning the rights of a father, and of marriage, Roman codes, Twelve
4. Hobbes, T. & Macpherson. C.B. (Eds.) (1982) Leviathan. New York: Penguin Classics. Commenting on the state of nature, Hobbes described life as follows: No arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short"
5. A history of England during the height of its feudal period is found in Barlow, F. (1999).The feudal kingdom of England, 1042-1216. New fork: Longman.
6. A good historical account of juvenile justice is found in sanders, W.R. (Ed.). (1970) Juvenile Offenders for a thousand years. Chapel Hill, NC: University of North Carolina Press.
7. See Rendleman. D.1R. (1979) Parens patriae: From chancery to the juvenile court In F.L. Faust & P.J. Braninvon (Eds.) Juvenile justice Philosophy St Paul, MN; west publishing.
8. See Fagan. J.& Zimring. F.E. (Eds.) (2000), the changing borders of juvenile justice: Transfers of Juveniles to the criminal court. Chicago: The University of Chicago Press.
9. Pumanchera, C. Stahl, A.L., Finnegan, T.A., Tierney, N., & Snyder, U.N. (2003).Juvenile court statistics Washington, DC; ELS, Department of Justice.
10. Biblical authority was cited for this practice, for example at Deuteronomy 21:18-21.
11. Good discussion of the socio economic impact of the industrial revolution may be found in Ilobsbawm F. (1996), the age of revolution: 1789-18-18. Ness York: Random house.
12. For a period account of the Ness York house of Refuge, first published in 1869, see Peirce, B.K. (1969). Half century with juvenile Delinquents: Or the New York house of Refuge and its times. Glen Ridge, NJ: Paltcnon Smith.
13. Ex parte Course, 4 what 9 (Pa. 1838).
14. The Saving Movement also arose in England and Scotland during the mid-nineteenth century.
15. For a histor) of the Child-Sming Mo.entent. See Platt. :1 M1. (19911. The Child NSA eri: The in, ention of delinquency (2nd Ed.). Chicago: The t nip emit) of Chicago Press