

Profile of Juveniles Examined for Age Estimation: A Forensic Department Study

Mohit Gupta

Associate Professor, Department of Forensic Medicine, VMMC and Safdarjung Hospital, New Delhi 110029, India.

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Abstract

In India, according to Juvenile Justice Act 2000, a person below 18 years of age is a Juvenile. This law has been amended with time. As per the recent changes the age for a person to be considered Juvenile will depend on crime committed by Juvenile. If the individual does not have any valid proof of age, then he is brought for medical estimation of age. In Delhi, the age estimation is done in Forensic Medicine Department.

This paper aims to study the profile of Juveniles brought for age estimation in Forensic Department of a tertiary care centre in Delhi with a focus on alleged offence committed, alleged age of these individuals, age estimated through medical examination and possible abuse of the legal provisions by perpetrators of crime with a critical note necessitating the requirement of recent amendment to the act.

Keywords: Juvenile Justice Act; Amendment; Juvenile; Crime.

Introduction

Juvenile justice act 1986¹ was enacted following the Beijing rules, to cater to the special development needs of the juveniles in conflict with law, providing them care and protection and helping them for smooth rehabilitation in the society. This law was amended by Juvenile Justice

Act 2000 (JJA 2000) which stated that Juveniles were individuals below the age of 18 years irrespective of gender.^{2,3}

The proof of age as required under Juvenile Justice Act 2000 is the age proof or matriculation certificate from school and birth certificate issued by municipality or corporation. If these documents are not available, then the juvenile in conflict with law is referred to a medical board of doctors for age determination. As per the Judgement of Delhi High court this medical board should comprise of specialists from Dental, Radiology/Forensic and Medicine departments.

According to NCRB data 2014, the total number of new cases reported under JJA 2000 were 1315 out of which 6 cases ended as mistake of fact or law. Total number of cases disposed of were 1149 with total pendency of 20%. Amongst the incidence of crime against children, Delhi constituted 10% of total all India percentage and the maximum amongst union territories. The percentage of cases of juveniles to total cognizable crimes in 2014 was 1.2 and the rate of crime under cases of juveniles in conflict with law in the same year was 2.7. According to NCRB data most of the juveniles committing crime belonged to the age group of 16-18 years followed by age group of 12-16 years and lastly below 12 years. In all age groups male dominance was seen over females for crime rate.⁴

This paper is an attempt to study the profile of the Juveniles in conflict with law (JCL), brought for age estimation in Safdarjung hospital, Delhi with a focus on alleged offence committed, alleged age of these individuals, age estimated through medical examination and possible abuse of the legal

Corresponding Author: Mohit Gupta, Associate Professor, Department of Forensic Medicine, VMMC and Safdarjung Hospital, New Delhi 110029, India.

E-mail: drmohitfm@gmail.com

provisions by perpetrators of crime. Recently, the Indian Cabinet has passed an Act that JCL would be tried according to the offence committed by them, rather than just by their age.⁵ Hence here we would also try to analyse whether this resolution would have any effect on punishing heinous offenders.

Materials and Methods

The study was done in Department of Forensic Medicine, VMMC and Safdarjung Hospital, New Delhi. The retrospective data was collected from records of the age estimation cases done during the year 2014. The data was critically analysed and the results are as under.

Results

The total number of age estimation cases done were 387 during the year 2014. Out of these 113 were females and 274 were males. (Figure 1)

In most of cases the age estimation was done on the order of Child Welfare Committee (41.34%) followed by Juvenile Justice board 2 (31.26%) and Saket Court (22.73%). (Table 1, Figure 2)

In most of the cases the crime was done in the same year as age estimation (Table 2). However, age estimation was also done in cases where crime was done in year 1994 (1), 2003 (1) and 2007 (5).

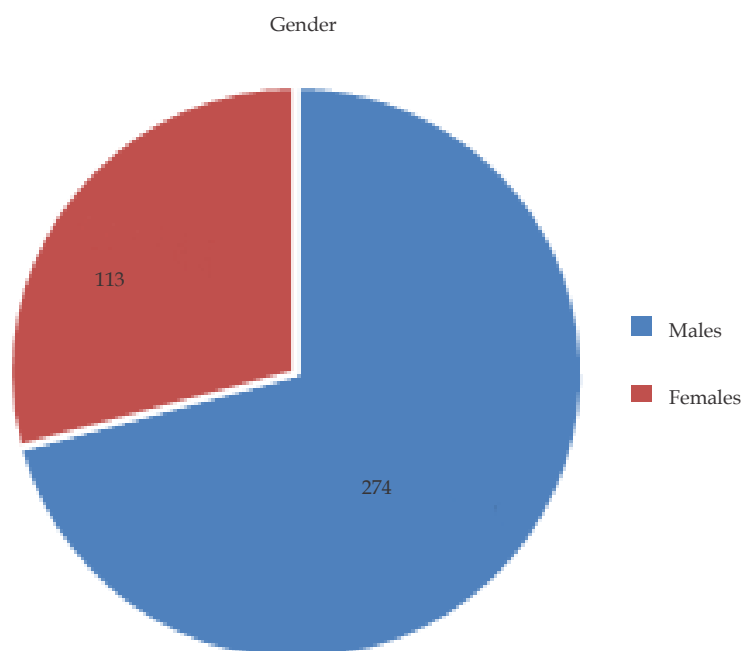


Fig. 1: Number of Cases as per gender

Table 1: Authority who ordered Age estimation

Authority	Number of cases
Child Welfare Committee	160 (41.34%)
Dwarka	1 (0.2%)
High Court, Delhi	1 (0.2%)
Juvenile Justice Board 2	121 (31.26%)
Patiala house	12 (3.1%)
Police	2 (0.4%)
Saket court	88 (22.73%)
Tis Hazari	2 (0.4%)

The alleged juveniles being brought for age estimation mostly belonged to Delhi (64%) and followed by the states of Bihar (16.5%) and Uttar Pradesh (9%). (Table 3, Figure 3)

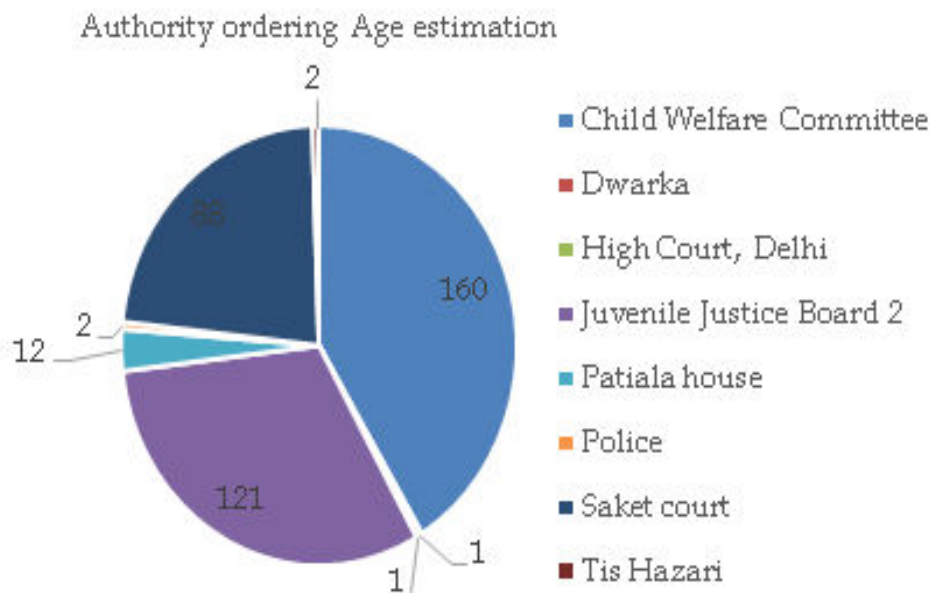


Fig. 2: Authority who ordered Age estimation

Table 2: Year of alleged crime

Year of Alleged Crime	Number of Cases
1994	1
2003	1
2007	5
2012	1
2013	30
2014	343
Not available	6

Table 3: Region from which the alleged juveniles belonged from

Region	Number of cases
Assam	04 (1%)
Bangladesh	01 (0.2%)
Bihar	64 (16.5%)
Haryana	05 (1.2%)
Jharkhand	08 (2%)
Manipur	01 (0.2%)
Myanmar	02 (0.5%)
Nepal	02 (0.5%)
New Delhi	248 (64%)
Uttar Pradesh	35 (9%)
West Bengal	13 (3%)
Original Address not available	04 (1%)

In maximum cases the juveniles were charged under Indian Penal Code (69.76%). (Table 4, Figure 4) they were also charged under Protection

of Child against Sexual Offences Act 2012 (POCSO 2012), Juvenile Justice Act 2000 (JJA 2000) and Bonded Labour Act.

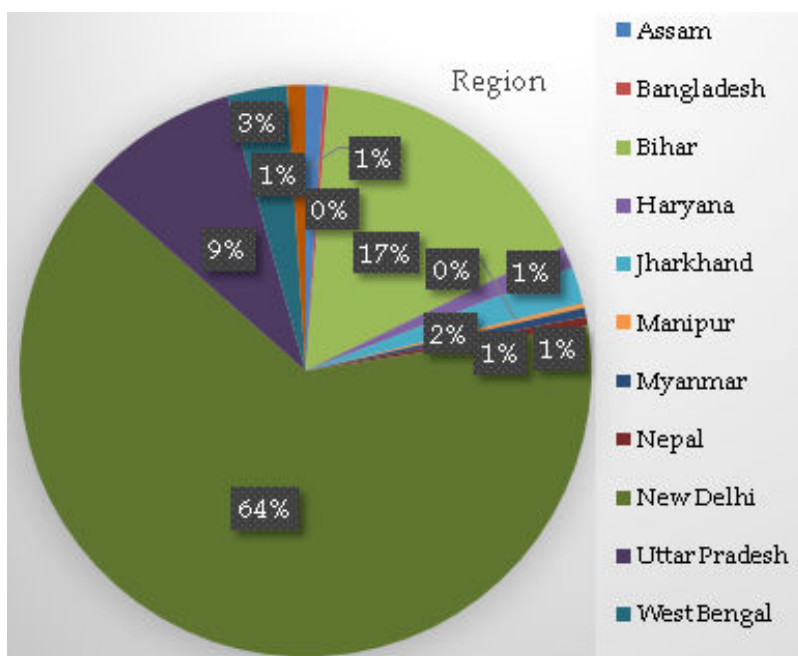


Fig. 3: Region from which the alleged juveniles belonged from

Table 4: Different Acts under which the Juveniles were charged

Acts	Number of Juveniles
Indian Penal Code 1860 [6]	270 (69.76%)
Protection of Child against Sexual Offences Act 2012 ⁷	52 (13.43%)
Juvenile Justice Act 2000	54 (13.95%)
ARMS act 1959 ⁸	03 (0.7%)
Passport act 1967 ⁹	02 (0.5%)
Bonded labour act 1976 ¹⁰	15 (3.8%)
Child labour act 1986 ¹¹	07 (1.8%)
Prevention of Corruption act 1988 ¹²	01 (0.2%)
Delhi excise act 2009 ¹³	01 (0.2%)

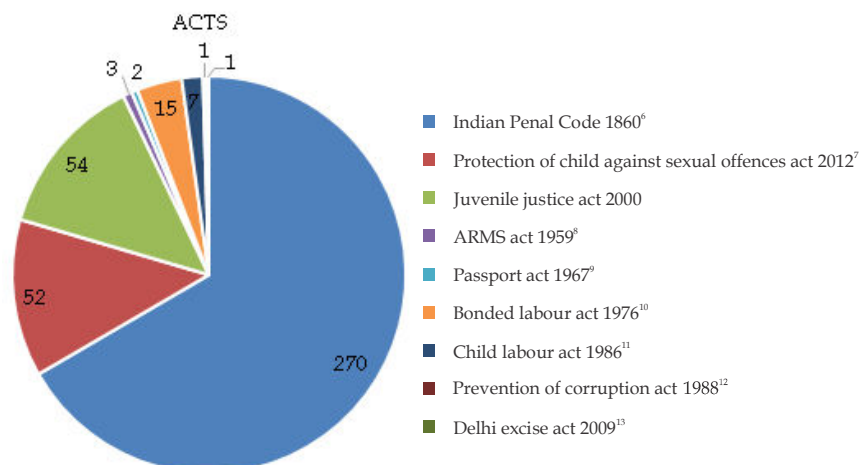


Fig. 4: Different Acts under which the Juveniles were charged

In most of the cases Juveniles brought for age estimation had committed some offence. However, there were other reasons also for determination of age especially in females (Table 5).

Most Juveniles had committed offences affecting human body and offences related to property. Usually juveniles worked together in groups since many juveniles were charged under Section 34 IPC (Table 6).

One Hundred seventy-three (44.7%) juveniles were charged for crimes where punishment under IPC was more than 7 years, 35 (9%) juveniles were charged for crimes where punishment under POCSO was more than 7 years and 1 juvenile were charged under Arms Act where the punishment was more than 7 years.

Maximum number of juveniles found to be committing the crime belonged to the age group

Table 5: Common reason for age determination besides offence

Reasons given for age determination	Number of cases
Abandoned	4
School Admission age not known	5
Marriage	1
Age not known	11
Different ages mentioned in different places	01
Ran with boy	06
Surrogate	02
Wants to go away from juvenile home	01
Single parent mother expired	02

Table 6: Nature of Crime in IPC committed by Juveniles

S. No.	Crime under IPC	Number of Juveniles
1.	Common intention (S. 34 IPC)	111
2.	Of abetment	3
3.	Of offences against public tranquility	1
4.	Of offences by or relating to public servant	1
5.	Of offences affecting public health, safety, convenience, decency and morals	2
6.	Of offences affecting human body	
6a.	Of offences affecting life	21
6b.	Of hurt	23
6c.	Of wrongful restraint and wrongful confinement	10
6d.	Of criminal force and assault	127
6e.	Sexual offences	50
7	Of offences against property	
7a.	Of theft	102
7b.	Of robbery and dacoity	29
7c.	Of receiving stolen property	95
7d.	Of cheating	3
7e.	Of criminal trespass	7
8	Of offences relating to documents and property marks	22
8a.	Of property and other marks	1
9.	Of offences related to marriage	1
10.	Of criminal intimidation, insult and annoyance	30
11.	Of attempt to commit offence	19

Table 7: Number of Juveniles charged for offences where punishment was 7 or more years

Crimes for which the punishment was 7 or more years	Number of Juveniles
IPC 1860	173 (44.7%)
POCSO 2012	35 (9%)
ARMS Act 1959	1

Table 8: Number of juveniles committing crime on the basis of age

Age group	Number of juveniles
Less than 12 years	29 (7.4%)
12-16 years	102 (26.35%)
Years	145 (37.46%)
More than 18 years	48 (12.40%)
Alleged age not mentioned	63 (16.27%)

Table 9: Number of Juveniles whose alleged age was within range or out of range from estimated age.

Number of juveniles - Estimated age and alleged age		
Within range	Out of range 177 (45.73%)	Age not mentioned
147 (37.98%) Lower alleged age	140 (79.09%) Higher alleged age	37 (20.9 %) 63 (16.27%)

Table 10: Difference (in years) in alleged age and estimated age amongst examined Individuals

Difference in alleged age and estimated age (years)	Number of juveniles with lower alleged age	Number of juveniles with higher alleged age
1	56	21
2	39	10
3	25	3
4	12	2
5	6	1
6	1	
8	1	

of 16-18 years followed by 12-16 years, with more males committing crimes as compared to females across all age groups (Table 8).

The alleged age of the examined individuals was not mentioned in about 63 cases of which 17 were females and 46 were males. Of the remaining cases, 147 (37.98%) individuals had correctly reported their age while 177 (45.73%) individuals had erred in reporting their age (Table 9). Out of the individuals who erred in reporting their age, 140 (79.09%) had reported age less than that inferred and in 43 (30.71%) cases this difference was 3 or more years. 37 (20.9 %) individuals had reported age more than that inferred on examination and in 6 (16.21%) cases this difference was 3 or more years (Table 10).

Discussion

As per Juvenile Justice Act 2000, Juveniles were individuals who were less than 18 years of age.² This act was amended in 2015 and after the amendment of 2015 the age of juvenile depended upon the crime committed.⁵ The incidence of juvenile related crimes is on an increase as shown by the NCRB data wherein the percentage of cases of juveniles to total cognizable crimes increased from 1 in 2013 to

1.2 in 2014.⁴

Proof of age is required for the person to be tried as juvenile.⁵ Most of the individuals in India have not attended school neither do they have a municipality birth certificate; hence they are routinely brought for medical age estimation. Medical age estimation in Safdarjung hospital is done as per the directions of Hon'ble Delhi High court by a board of doctors. Safdarjung hospital is situated in South Delhi and caters to south west district of Delhi. However, being a tertiary care centre and one of the most prominent hospitals of Delhi, cases are referred from all over Delhi. In our study period, maximum cases were performed at the order of Child welfare committee and Juvenile Justice Board 2.

Of the 387 cases examined for age estimation in 2014, 70.8% were males and 29.2% were females. Of these females, only one was accused while all others were examined for some other reason like being victims of some offence, running away with boy, issue of school admission etc.

Usually the examination of the accused was conducted in the same year as that of commission of offence. However, there were at least 08 cases where the crime was committed much earlier. It may be because the lawyer/accused did not

consider that the individual was a juvenile at the time of committing the offence. It is also possible that the lawyer/individual waited for some time to take the defence of individual being a juvenile at the time of committing the offence as the possibility of determining precise age by medical examination decreases with increase in age. Hence in many of these cases the age opined was between 22–40 years. This shows the wide range regarding the age opined thereby giving the benefit to the juvenile in the court of enquiry. What was supposed to benefit the young souls was used or rather misused by a stratum of society, citing their age at the time of commission of offence as a defence, so that they can be tried under the Juvenile Act. This results in a delay in criminal proceedings and many a times, due to limitation of medical science, an acquittal of the accused.

The examined individuals mostly belonged to Delhi followed by the states of Bihar and Uttar Pradesh. This may be because these are the neighbouring states and there is a greater influx of people from the state of Bihar and Uttar Pradesh into Delhi. Amongst the examined individuals very few were from the North-eastern part of the country like Manipur.

Since, Indian Penal Code is a central statutory law enlisting most of crimes, maximum individuals had been charged under this Act. Individuals were also charged under POCSO 2012, JJA 2000, Arms Act, Child Labour Act and some several other legislations. Most Juveniles had committed offences affecting human body and offences related to property. Usually juveniles worked together in groups since many juveniles were charged under Section 34 IPC.

A total of 209 individuals had committed crime for which punishment was more than 7 years. This shows the increasing prevalence of heinous crime with the increase in age of individual. Moreover, most of these individuals were in the age group of 16–18 years. In 2015⁵, Juvenile justice act had been amended to include the people above the age of 16 years who commit any crime for which the punishment is more than 7 years as having committed Heinous offence and then the punishment would be like an adult which will be commensurate with the punishment of the crime. Death sentence and imprisonment for life cannot be given to such individuals.

Data shows that many individuals erred in reporting their alleged age. 49 individuals had erred by 3 or more years in reporting their correct age. While some of these cases may be because

they actually did not know their age, others may be attributed to a malafide intention on part of individuals to conceal their age. As shown previously in at least 08 cases the crime was done much before the year of examination. It is possible that even in these cases there was an attempt made by the accused to mislead the medical examiner and the police to gain benefit in judicial system. This shows that the age mentioned by the accused/individuals cannot be relied upon and the medical examiners should do a complete medical examination to determine the age. It also highlights the importance held with the individuals being found juveniles as then they will be let off with an easy punishment in a juvenile home rather than punishing them to prison.

Conclusion

The study found that that the most of the juveniles committed offences affecting human body and offences related to property. Most of the juveniles belonged to the age group 16–18 years. The medical examination for determining age has its own limitation and the possibility of abuse of such limitation by crime perpetrators cannot be ruled out. The amendment of Juvenile Justice Act 2015 correctly separates the age group of 16–18 years to be punished differently if committing a heinous offence. The incidence of crime committed by juveniles is rising and there is a greater need for stricter enforcement of existing laws to act as a deterrent for the offenders. Mostly the juveniles work collectively hence mass awareness campaign, social reformative actions, better education may result in improvement of the system as they affect the peers of the juvenile.

It will be advisable that in the absence of proof of age, the medical age determination is done as soon as an alleged juvenile is apprehended. This will result in speeding of the justice delivery system and prevent wasting of precious time of judiciary and will also avoid unnecessary issues arising during the course of trial.

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