
Role of Juvenile System in India

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Abstract

Juvenile justice relates with minors who've already violated the law and require care and protection. Children are a society's or nations most valuable asset, which is why they should grow up to be responsible citizens who are cognitively aware, physically strong, and morally healthy so that they can assist to the betterment of society. Children commit crimes for a number of reasons. In India, person before attaining 18 years of age are considered to be juvenile. Those people who have not attained the age of legal responsibility are minors who are considered to require care and protection. Objective of Juvenile Justice System is to rehabilitate young offenders and give them a fresh start in their lives. Minors who are exposed to drugs and alcohol are victims of violence or abuse are more considered prone to commit crimes. When parents have inadequate parenting skills, an abusive household, domestic violence, or a single parent who has left their children unattended for an extended period. News, movies, web series, social media, and a lack of education are all factors that impact children's criminal behavior.

Keywords: Juvenile Justice, Minors, legal Responsibility, Inadequate, Criminal Behavior.

1. INTRODUCTION

Nothing is new on this planet, as the Latin proverb “Nil Novi Spectrum”, which perfectly sums up India's juvenile justice system, states. That since start of time, people have believed that younger individuals should be treated with more compassion since they have a propensity to retaliate violently when they get really frustrated. The frequency of crimes committed by minors between the ages of 15 to 16 has significantly grown. The general predisposition or psychology underpinning the conduct of crime is influenced by early upbringing, dominant masculinity, experiences, lack of education, economic turmoil, as well as other factors. Because young children's minds are naive and deceitful, they may be easily seduced for a little price. As a result, it is shameful that youngsters between the ages of 6 and 10 are being used as tools for carrying out illegal or criminal activities. The “Children Act of 1960”, which was passed before the “Juvenile Justice Acts of 2000”, 2015, as well as 1986, sought to implement international replies to the “juvenile justice” issue by forming an uniform rules that safeguarded a interests of juvenile's as well as rights and rehabilitation treatment, considered the care, as well as development of a child as a whole. Former Indian Chief Justice “V.K. Krishna Iyer” famously said, “a child is the father of a man, and if we neglect children's under-development, we would be guilty of a whole host of faults and errors associated to deserting our children. There is a proverb among Indians that goes, if you come home in the evening, it will not be forgotten, especially in northern India. One might claim that this adage serves as the base of India's current “juvenile justice system”. Owing to a school of thinking that holds that adolescents are prone to reacting in heavy and unrelenting irritation, often accompanied by violent methods due to their age, humans have assumed that juveniles should be treated with considerable tolerance and compassion from ancient times [1]. In recent decades, there has been an rise in the number of children under the age of Sixteen who commit crimes [2]. The environment in which the kid was raised, the economy, a lack of education, as well as parental care may all have an impact on the rising crime rate. Here are some of the most crucial things to take into account. The most troubling part is that young children, especially those between the ages of five as well as seven, are increasingly being utilized as criminal instruments since their brains are still relatively pure at that age and are easily fooled. The shocking incidence of the “Nirbhaya Delhi Gang Rape Case”, [3] which happened on 16 December, 2012, shook the whole nation and sparked several disputes among legal professionals and leftists. The accused's involvement who was 6 months from turning eighteen was the main justification for the claim. Because of the accused's participation in such a horrific rape, Indian Parliament passed a new legislation in the year 2015 called “Juvenile Justice”.

Existing “juvenile laws” were removed and numerous important changes were made as a result of the Act's passing. One of the significant changes is that those who are minors but between the ages of sixteen and eighteen should be tried as adults.

1.1. According to the “Juvenile Justice Act of 2015” and other laws:

An individual under the age of eighteen who lacks the capacity to distinguish between good and wrong is often referred to as a child. In the modern era, most nations' criminal codes have accepted the idea of “doli Incapax”, which entails knowing that the behavior you are engaging in is illegal. According to the criminal laws, only children aged seven to twelve may be found guilty of a horrible crime if they possess knowledge and have acquired enough information to understand the ramifications of their acts [4].

The “Juvenile Act, 2015” s sub-section 12 of Section 2 defines a kid as a person who has not attained the age of eighteen.[5] The word kid is separated into two sets under the Act:

- A youngster at odds with the law
- A child in essential of protection as well as care.

Youngster in disagreement with the law refers to a child who has committed a crime as well as was below the age of 18 at the time of the offence. A child who satisfies the requirements outlined in “Section 14” of the Act is referred to as a “child in need of care and protection” in the second subcategory.

The first classification is a children in conflict with the law, which contains any child even though defined in Section 14 of the Act who is not charged with any offence committed and who was underneath (below 18) at the period of the offence. The second scenario, which contains any child as defined in “Section 14” of the Act who is not charged with any offence.

Even if a child and a young adult are almost identical, there are significant differences among them in their uses and contexts. Regardless of whether a child is merely regarded as an innocent individual, the term “juvenile” has a negative connotation in the legal system. In contrast to juvenile, which denotes immaturity or a young criminal, child denotes innocence and youth. Simply, juvenile is a minor who has been charged with a crime.

- “Children Act, 1960: Section 2 (e) of the Act states that a child is any boy or girl less than the age of eighteen”.[6]
- The 1989 “UN Convention” on Unless the kid achieves the age of majority earlier, the Rights of the Child define a child as a person who is under the age of eighteen.[7]

Before the seventeenth century, “juvenile” offenders received the same treatment as other criminals. There was a movement for specialized treatment for juvenile criminals in the eighteenth century. The General Assembly of UN passed the Convention on the Rights of the Adolescent, which includes provisions to protect the rights of young offenders, on November 20, 1989. The pact also guarantees that adolescents won't be exposed to any legal proceedings or court trials and safeguards their social degeneration. As a consequence of this agreement, the Indian Parliament abolished the “Juvenile Justice Act of 1986” and replaced it with the new, improved, and maybe better “Juvenile Justice Act, 2000”.

In order to approve the National Standards Guidelines for the Administration of Juvenile Justice published by the “United Nations General Assembly” in November 1985, the “Children Act of 1960” was abolished by the Juvenile Justice Act of 1986. The Act established a nationwide framework for defending the rights and interests of children, with the exception of Jammu and Kashmir. It also set certain fundamental rules for the administration of justice and what should happen when young offenders commit severe crimes.

The “Juvenile Justice Act of 2000”[8] was passed to ratify the 1989 convention on the protection of children's rights adopted by the “UN General Assembly”, however it was inadequately carried out and equipped. To fix the flaws and loopholes, it was revised again in 2006 as well as 2011, however both updates were unsuccessful. The legislation was also passed to combat the rise in adolescent criminality in India. The “Juvenile Justice Act”, 2015, was repealed and replaced as the principal legislation controlling India's juvenile justice system.

1.2. Which Theory—Reformative or Punitive—Should Be Employed in the Case of Juveniles?

Every country's legal system has four fundamental principles on the punishment to be meted out to an offender. The four theories are retributive theory, reformative theory, punitive theory, as well as deterrence theory. Let's examine the reformative and punitive ideas that are now making headlines. Punitive theory was the most well-known and widely used school of thinking even in antiquity. While reformative theory is a school of thought that contends that prisoners should be given the opportunity to change and contribute to society rather than being punished, this viewpoint claims that criminals should be freed.

In India, the punitive approach is often used, but when dealing with a juvenile offender, we switch to the reformative theory devoid of any justification. The state contends that youth, who represent the country's

future, should be given the opportunity to change their ways rather than living out their lives in prison for an undetermined period of time. But is the justification faultless?

Regardless matter who commits a crime, the rule ought to be the same for everyone, in my view. Whether the perpetrator is under the age of eighteen or above the age of 18, rape is still rape. One cannot claim that a minor lacked men's rea when they committed an offence. The victim's rights should be covered by the law if juvenile offenders are to be rehabilitated so they may live better lives.

1.3. Concerns for Juveniles around the World:

On November 20, 1989, the "United Nations General Assembly" enacted the Convention on the Rights of the Adolescent, which lays out a set of guidelines that entirely States Parties must follow in order to protect the best interests of children.[9] The subject of children's rights and the prevention of child abuse has benefited greatly from global instruments as well as treaties. The development of children has traditionally received greater attention from international organizations like the "United Nations and UNICEF".

These are the international agreements and treaties that all UN member nations have ratified to protect children's rights:

- Standard Minimum Instructions for Administration of "Juvenile Justice" (Beijing Rules)
- Instructions for Prevention of "Juvenile Delinquency" from the UN ("Riyadh Guidelines")
- Instructions for the Protection of Juveniles Deprived of their Liberty ("Havana Conventions")
- Rules for Action against Children in the Juvenile Justice System ("Vienna Guidelines")

2. DISCUSSION

2.1. "Juvenile Justice Act", 2000

The Act was approved into law in the year 2000 with the intention of assuring children's safety. The data above was revised two times: first in the year 2006 as well as again in 2011. The version was created to bridge the gaps in execution and address any issues.

The disturbing "Delhi Gang Rape Case" and the unsettling increase in juvenile crime in recent years have also prompted politicians to enact regulations. The fundamental shortcoming of the Act is the lack of sufficient legal safeguards, and India's "juvenile justice" system is crucial for preventing juvenile crime. To replace the statute, the "Juvenile Justice" Statute of 2015 was promptly adopted.

2.1.1. Current "Juvenile Justice System" In India

Similar some other nations, India has implemented laws aimed particularly at the protection and rights of young offenders in an effort to combat the problem of juvenile delinquency. Three fundamental presumptions form the foundation of India's "juvenile justice system":

- Social control groups like Observer Homes as well as Special Houses should be used as the basis for community-based non-punitive rehabilitation during trials for children who have broken the law.
- Why Young criminals shouldn't be prosecuted in court; instead, they should get whatever assistance that is available.

2.2. "Juvenile Justice Act", 2015

The "Juvenile Justice Act" of 2015 substituted the "Juvenile Justice Act of 2000" as a additional robust as well as effective legal system was required, one that placed equal emphasis on reformative and deterrent measures. Juveniles should be given greater opportunities for change, reform, or progress, it has been stated in Parliament, but this is only possible when a specific judicial system is in place. In terms of attitude, children should be treated differently from adults. The new "Juvenile Justice (Care and Protection of Children) Act", 2015, thus, emphasizes a child approach to dispute settlement and adjudication.

2.2.1. Some of the Key Features:

- Child is defined as a person who has not attained the age of 18, according to Section 2 (12) of the "Juvenile Justice Act", 2015.
- According to Section 2 (13) of the "Juvenile Justice Act of 2015", the term Child is divided into two groups: "Child in need of care and protection and Child in conflict with the law".

- The features of the offences were clearly contrasted, suggesting that the offences were categorized as heinous, serious, or minor. After a careful evaluation of their mental competency, a minor between the ages of 16 and 18 who commits any kind of crime may be tried as an adult.
- In relation to NDPS courts, courts handling POCSO, etc., the creation of “juvenile courts” meant that special courts were to be formed that would exclusively be looking after the offences linked to juveniles solely.
- Following the passage of the 2015 Act, the phrase “Child in need of care and protection” was defined. To advance it, think about the following ideas from the many ones listed in Section 2 (14) of the “Juvenile Justice Act, 2015”:
 - i. People whose guardians are unable to care for their kids.
 - ii. People who are or have been trapped engaging in work that is outside the law.
 - iii. People who are about to be married before attaining the legal age limit.
 - iv. The Act, which acknowledges the rights of adopted children, includes a definition of adoption as well.

By meeting children's basic needs through appropriate care and protection, advancement, therapeutic interventions, and social inclusion, as well as by using a child-friendly approach in adjudication and mothballing of matters in the best interests of children, the main goal is to harmonies the laws pertaining to children accusations made to be in violation of the law as well as children in need of protection and care. Through various institutions and childcare facilities, the legislation also supports the rehabilitation of juvenile criminals. The following are the key areas that the Act addresses:

2.3. Claim of the “Juvenility”

As the term “claim of juvenility” suggests, it refers to deciding who may assert juvenile rights or who can be considered a “juvenile”. According to “Rule twelve of the Juvenile Justice” Rules from 2007, the “Juvenile Justice Board” in India must decide on an allegation of juvenility. The board must rule on the alleged juvenility before court proceedings begin, however it may be brought up again at any moment, even after the issue has been resolved.

- In the case of “**Kulai Ibrahim v. State of Coimbatore**”, the Court ruled that an accused person has the right to assert juvenility under Section 9 of the “Juvenile Justice Act”, 2015, at any point throughout the trial process or even after the case has been decided.
- In “**Deoki Nandan Dayma v. State of Uttar Pradesh**”, the “Supreme Court” ruled that the student's birthdate listed in school records is valid proof of the “juvenilities” person's age.
- In the case of “**Satbir Singh & others v. State of Haryana**”, the “Juvenile Justice Board” should take into account an accused person's date of birth as indicated in school records when deciding whether or not they are a juvenile, the Supreme Court underscored.
- In “**Krishna Bhagwan v. State of Bihar**”, the court decided that the day the offence was committed should be used to regulate a “juvenile's” ages for the determination of a “Juvenile Justice Board” trial.
- However, in “**Arnit Das v. State of Bihar**”, the “Supreme Court” overruled its previous decision, finding that the day the offender is brought before the proper authorities shall be the date on which a right of juvenility should be determined.

2.3.1. “Juvenile Justice” Board

For the aim of conducting inquiries and hearings in situations involving young people who disagree with the law, a Board must be constituted. The “Principal Magistrate”, two social workers, including one who must be a woman, and the Principal Magistrate shall make up the Board.

The Board is prohibited from operating or conducting its business from conventional court premises under any circumstances, rendering to the Act. Its Principal Magistrate's determination must be deemed conclusive.

2.3.2. The “Juvenile Justice Board” Special System:

A process for dealing with juvenile offenders is established under the Act. The main special procedures:

- The initiation of the processes cannot be based on a complaint made by the police or a civilian.
- The hearing need to be informal and kept a secret.
- The criminals need to be housed in an observation home after imprisonment.
- A female “magistrate” will preside over the juvenile offender's trial.

2.3.3. Causes of “Juvenile Delinquency”

In India, several reasons of juvenile misbehavior have been discovered via research and studies. Every individual, even youngsters, has their own set of behavioral tendencies. Early childhood is where behavior patterns emerge, and identifying any type of behavior at this age is quite difficult. However, when a kid matures and enters the real world, his or her behavior patterns vary with time, and a variety of conditions or situations may trigger delinquent conduct. The reasons of juvenile delinquency are listed below.

- **Adolescent Instability:**

The instability of the biological, psychological, and social systems is one of the most significant influences on teenage behavior. Teenagers at this age are more focused on their fun, eating, and play than they are with their looks and styles. At this age, they want for independence and freedom, but their guardians, teachers, as well as elders do not always provide them those possibilities, which might foster the emergence of antisocial behavior. The antisocial behavior, biological changes, as well as psychological elements that lead to “juvenile delinquency”.

- **Disintegration of the Family System:**

Collapse of the family system, as well as lack of parental control, is a major contributor to rising adolescent crime rates. Parental separation or divorce, an absence of parental control, and a loss of love and affection are all frequent causes of “juvenile” misbehavior.

- **Poverty and Economic Condition:**

Juvenile criminality is said to be on the increase in part due to poverty and unfavorable economic circumstances. Because of their inability to provide for their children's needs due to poverty, parents and guardians are forced to steal from other people's homes and parents in order to fulfil their children's desires. Once their desires have been satisfied, children expect their parents to do so using any means necessary. People develop a habit of stealing as a result, which causes widespread robberies.\.

- **Migration:**

Males who migrate to slums as homeless or poor teens are exposed to anti-social rudiments of society who participate in illegal actions such as drug trafficking, prostitution, and so on. Juveniles find these types of activities interesting, and they may participate in them.

- **Indulgence of Sex:**

Children who have endured sexual assault or any other kind of unwanted physical harm as children may act out or think inappropriately. At this age, people could start looking for sex experiences or become more vagrants. If there is too much diversity in sexuality, males may be more prone to commit crimes like abduction and rape

- **Life Style Modern:**

Children and teenagers find it extremely difficult to acclimatize to new lifestyles due to quickly changing societal trends and modern living styles. They are dealing with issues of cultural clashes and are unable to distinguish between good and wrong

2.4. India's Constitution And Juvenile Justice

The “Indian Constitution” is regarded as the country's founding document. Responsibilities and Citizens' rights are set down in the Constitution. It also specifies how government machinery should function. Fundamental Rights are guaranteed for people in Part III of the Constitution, while Directive Principles of State Policies (DPSP) are supplied in Part IV of the Constitution and serve as broad guides in the preparation of government policies. Some essential rights as well as particularly for the welfare of children, are included in constitution.

- Every kid among the ages of 6 as well as 14 has the legal right to a free, required, fundamental education. The right to be shielded from hazardous labor when under the age of 14 (“Article 21A”). The “Article 24”
- Right to protection from all types of adult abuse. The right to be free from forced labor and human trafficking is guaranteed under Article 39(e). The “Article 39”
- The right to a balanced diet and a comfortable standard of life. The “Article 47”
- The Indian Constitution's “Article 15(3)” gives the states the exclusive authority to make specific laws for the welfare as well as development of women and children.

In order to guarantee that children's rights are protected in every way possible, lawmakers took into consideration all of the necessary provisions of the Constitution while drafting the Juvenile Act of 2015. For this reason, Chapter IV of the Act contains provisions for juvenile welfare, with a focus on the reformation and rehabilitation of adolescents in all situations.

2.4.1. Punishments for crimes against children:

The JJ Act of 2015 stipulates a number of penalties for crimes committed against children. Penalties include delivering an intoxicated substance to a kid, selling or purchasing a child, maltreatment to a child, employing a youngster for begging, and so forth.

Any official who fails to notify an abandoned or orphaned kid within 24 hours might face a six-month jail sentence, a Rs 10,000 fine, or both. Failure to register a child care centre carries a penalty of up to a year in prison, a fine of one lakh rupees, or both. A seven-year jail sentence, a one lakh rupee fine, or both may be imposed for providing alcohol, narcotics, or psychotropic prescription medication to a kid.

2.4.2. Numerous Social Reintegration and Rehabilitation Measures:

Both children who have breached the law and those who need care and protection may use these programs. Children in institutional care receive a variety of services, such as education, nutrition, health, illness treatment, de-addiction, skill development, vocational training, life skill education, counselling, and other services, in an effort to help them become productive members of society. Sponsorship and foster care, especially group foster care, are two non-institutional alternatives for placing children in a family context other than their birth family. These families need to be thoroughly screened, qualified, approved, and monitored in order to care for children.

3. CONCLUSION

Youth crime in India is on the rise, which is a significant concern that has to be addressed. Although the government has passed several rules and regulations aimed at reducing juvenile crime, the results are ineffectual, and the legislative goal is not being met since the present laws on juveniles do not have a deterrent consequence on juveniles. A significant issue facing our society is the frightening growth of juvenile crime. Numerous instances of juvenile misbehavior have come in from all throughout the nation. Juvenile delinquency is the term used to describe a crime committed by a youngster under the age of eighteen. Even though the government has established a number of regulations in an effort to lower teenage crime, they remain inadequate. The existing legal system has produced ineffectual outcomes since it hasn't been able to dissuade young people from breaking the law. The goal of the authorities and the burning desire of society should be to reform the juveniles themselves, not to improve the juvenile justice system. India's soaring youth crime rates are a major issue that need quick response. Although the government has passed several rules and regulations aimed at reducing juvenile crime, the results are ineffectual, and the legislative objective is not being met since the present laws on juveniles do not have a deterrent influence on juveniles. There was never any question that the 2000-approved progressive juvenile legislation's provisions needed to be reconsidered since they weren't being implemented correctly. The "Juvenile Justice" 2015, which was approved by the Lok Sabha, is in many respects a progressive and all-encompassing measure that addresses the needs of both children who need care and protection and those who are in legal difficulty. One aspect of the law has been eclipsed by another, which specifies that from now on, adolescents between the ages of 16 as well as 18 who are charged with committing "heinous crimes" would be prosecuted as adults. The administration is of the opinion that this action will help soothe public concerns about young people getting away with crimes like murder and rape.

REFERENCES

1. N. Aggarwal, "An Analytical Study of Juvenile Justice System in India," [Online]. Available: <https://jlrjs.com/role-of-juvenile-justice-system-in-india/>.
2. A. S. Khanuja, "An Analytical Study of Juvenile Justice System in India," [Online]. Available: <https://blog.ipleaders.in/juvenile-justice-system-india/>.
3. Section 82 of IPC. India.
4. S. Agarwal and N. Kumar, "Juvenile justice (care and protection of children) act 2015: A review," Space and Culture, India. 2016, doi: 10.20896/saci.v3i3.165.
5. The Children Act, India, 1960.
6. A. Shaikh, "Analysis of the Juvenile Justice System in India," SSRN Electron. J., 2020, doi: 10.2139/ssrn.3598979.
7. UNICEF, "Rapid Survey on Children (RSOC) 2013-14 National Report," 2007.
8. D. S. S. Srivastava, Criminology, Penology & Victimology, 4th Edition. CENTRAL LAW AGENCY.