



Role of Juvenile Justice System in India

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Abstract: A juvenile is a child who has not reached the age of 18. India is a developing nation. Juvenile crimes are on the rise these days. Parliament passed the Juvenile Justice Act in 1986 to provide care, protection, treatment, development, and rehabilitation to neglected or delinquent juveniles. In India, the Juvenile Justice Act, of 1986 was repealed, and the Juvenile Justice Act, of 2000 was enacted. The Juvenile Justice (Care and Protection of Children) Act of 2000 serves as India's primary legal framework for juvenile justice. This act was amended again in 2006 and 2010. Following the Delhi gang-rape (16th December 2012), the law received widespread criticism for its inability to combat crimes involving juveniles in heinous crimes like rape and murder. In December 2015, Parliament passed the Juvenile Justice Bill, 2014, which became the Juvenile Justice Act, 2015. It went into effect on the 15th of January of this year. Section 2(a) of the Act of 1986 defined the term juvenile as "a boy under the age of 16 and a girl under the age of 16 have reached the age of 18". Meanwhile, India has signed and ratified the UN Charter. The 1989 Convention on the Rights of the Child (UNCRC) addressed adolescent rights. A juvenile is defined as someone under the age of 18.

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Introduction

Children are God's greatest gift; if they are treated with the highest level of human ability, society will profit and be happier as a result. Society will suffer if children are neglected and abused. International law actually considers anyone below 18 years of age to be an adolescent. Because children are our country's future, it is critical that their rights be safeguarded.

The Indian legal system plays a critical role in the preservation of children's rights through enacting numerous legislation. In today's world, judicial activism is a powerful instrument for protecting children's rights, especially prevention from child maltreatment, trafficking, and sexual abuse, among other things.

"Nil Novi Spectrum" may be a Latin phrase that completely describes India's juvenile justice system. It may be described as 'nothing new on this planet,' and among Indians, particularly in northern India, there's a maxim that translates as "It is rarely Too Late to fix," which may be accustomed to describe India's current juvenile justice system. Rather than using these phrases, the suitable statement for India's juvenile justice system is "Old enough to try to the crime, sufficiently old to try to the time," which is an English concept utilized by some states within the United States. Since there's a faculty of thought that juveniles should be treated favourably, this idea of leniency has existed since ancient India.

Prior to the Juvenile Justice Acts of 2015, 2000, and 1986, there was the kids' Act of 1960, which aimed to allow the effect of international responses to the problem of Juvenile Justice by providing a standardized policy that protected the interests and rights of a Juvenile and checked out care, treatment, rehabilitation, and development of a baby commonly.

However, with recent developments within the international community and therefore the subsequent emergence of Juvenile involvement in crime, Indian lawmakers are compelled to propose new, progressive, and stricter laws for the country's concerned Juvenile system. As a result, the Juvenile Justice Act of 1986, the Juvenile Justice Act of 2000, and, last, the Juvenile Justice Act of 2015 was gone the Parliament.

The rate among children under the age of 16 has risen in recent decades. The increasing rate may well be attributed to the child's upbringing environment, economic conditions, an absence of education, and parental care. These are a number of the foremost important reasons. The foremost disheartening aspect is that children (particularly those aged 5 to 7 years) are now used as tools for committing crimes because their minds are still very innocent and simply manipulated at that age.

The major debate and discussion surrounding the juvenile justice system began after the heinous incident of the Nirbhaya Gang Rape Case[[1]], within which an accused was only six months faraway from reaching the age of 18, the age of becoming

significant, forcing the Indian system to convict him as a juvenile instead of a full-fledged offender. The involvement of any juvenile in such a heinous crime prompted the Parliament to pass the “Juvenile Justice (Care and Protection) Act, 2015,” but before delving into the nitty-gritty of the said act and other provisions present within the Indian system for juveniles.

History of Juvenile Justice System In India

In modern times, a movement for special treatment of juvenile offenders has emerged around the world, particularly in many industrialized countries such as the United Kingdom and the United States. This movement began in the mid-eighteenth century. Juvenile offenders were once treated the same as other serious criminals. On November 20, 1989, the UN General Assembly adopted the Declaration on the Rights of the Child for the same purpose. This agreement is designed to protect the best interests of young offenders.

According to the Treaty, there will be no judicial or judicial proceedings against juveniles to protect their social rehabilitation. The Convention urges the Indian legislature to repeal and replace the Juvenile Justice Act, 1986 and enact new legislation. As a result, the Indian legislature enacted a new law known as the "Juvenile Justice (Care and History Of Juvenile Justice System In India

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A child who has committed an offense and is under the age of 18 on the date of the offense is noted as a “child in conflict with the law.” The second sub-category is “child in need of care and protection,” which refers to a toddler as defined in Section 14 of the Act.

In the epoch, a worldwide movement for the special treatment of juvenile offenders has begun, in many developed countries like the United Kingdom and also the United States of America. This movement began in the late 18th century. Previously, juvenile offenders were treated in the same manner as other criminal offenders. For the identical reason, the United Nations General Assembly adopted a Convention on the Rights of the kid on November 20, 1989. This convention aims to safeguard juvenile offenders’ best interests. In step with the Convention, there shall be no judicial proceedings or court trials against juveniles so as to shield their social reintegration. The Convention directs the Indian Legislation to repeal the Juvenile Justice Act of 1986 and enact new legislation. As a result, Indian legislation arose with a brand new act which was called “The Juvenile Justice (Care and Protection of Children) act, 2000.

The Juvenile Justice Act of 1986 also went into effect, repealing the sooner Children Act of 1960 so as to ratify the UNGA’s Standard Minimum Rules for the Administration of Juvenile Justice, which were adopted in November 1985. The act, with the exception of Jammu and Kashmir, essentially established the same framework for the protection of juveniles’ rights and interests across the country. It even outlined some fundamental provisions for the administration of justice and also the course of action to be taken in the case of significant crimes committed by juvenile offenders.

The Juvenile Justice Act of 2000 was passed so as to ratify the United Nations General Assembly’s 1989 convention on the protection of the rights of the kid, but it had been poorly implemented and equipped. It had been updated again in 2006 and 2011, both times vainly, to shut the gaps and loopholes. To combat the increase in juvenile criminality in India, the act was repealed and replaced by The Juvenile Justice (Care and Protection) Act, 2015, which is now the first piece of legislation governing India’s juvenile justice system.

Definition of Child and Juvenile in various Laws

The term “juvenile” comes from the Latin word “juvenis,” which implies “young.” generally, a “child” is someone who has not reached the age of 18 and isn’t mature enough to grasp what’s right and wrong. Most countries’ penal codes now follow the principle of ‘Doli Incapax’[[2]], which states that a baby is

incapable of forming the criminal intent to commit an offence.

A “child” is defined as anyone under the age of eighteen in Section 2 (12) of The Juvenile (Care and Protection) Act, 2015. The term “child” is split into two categories within the Act:

“Child in conflict with the law”[[3]] and

“Child in need of care and protection”[[4]].

Juvenile Justice Act, 2000

The Act was passed within the year 2000 with the goal of protecting children. The mentioned was amended twice, first in 2006 and so again in 2011. The amendment was made to handle the implementation gaps and loopholes.

Furthermore, the rising number of juvenile crime cases in recent years, in addition, because of the terrifying “Delhi Gang Rape Case,” has compelled lawmakers to pass legislation. The most disadvantage of the Act was that it contained ill-equipped legal provisions, and India’s malfunctioning juvenile system was also a serious thing about preventing juvenile crimes.

The Juvenile Justice (Care and Protection) Act, 2015

The Juvenile Justice Act of 2015 replaced the Juvenile Justice Act of 2000 on the grounds that a more powerful and viable justice framework that focused on impediments within the type of reformatory methods was required. Juveniles mustn’t be treated as adults; there are debates in Parliament about giving juveniles more room for change, reconstruction, or reform, which is simply possible when there’s a rare justice framework. As a result, new demonstrations, like the Juvenile Justice (Care and Protection of Children) Act, 2015, focused on a juvenile agreed method of mediation and case disposition[[5]].

Some of the quality features are:

A clear distinction has been made in terms of crime aspects, which implies that categories are established to classify crimes as heinous, serious, and minor. Specifications for minors aged 16 to 18 are established. If they commit against the law, they’ll be tried as adults only after their mental abilities are tested.

Regarding courts, these are special courts established to undertake misdemeanours only, like NDPS courts, POCSO courts, and so on. With the implementation of the 2015 law, the scope of the concept of “Children in Need of Care and Protection” was expanded by including the subsequent factors

among the various per Article 2 (14) of the Juvenile Justice (Child Care and Protection) Act 2015.

People whose guardians or parents are unable or unwilling to worry for their children. Those that are or are being caught working in violation of **labour** laws. People that are on the point of marrying before reaching the **age of majority**. The statute that recognizes children’s right to adoption has also clarified the definition of adoption. The goal is to strengthen rules regarding children who are found to be breaking the law moreover as children who require protection and support by meeting their basic needs, development, appropriate treatment, social integration, and providing a baby adoption-friendly environment. The approach to resolving and resolving cases within the child’s best interests. The law also emphasizes juvenile offender rehabilitation through various facilities and care centers.

Present Juvenile Justice in India

To achieve this objective, the Constitution of India under Article 15(3) has made provisions in special laws to ensure social justice for women and children. On based on this provision, the Government of India has enacted several laws to ensure care and protection of children. The Children Act 1960 was the first Central Act relating to the juvenile justice system.

In 1986, Juvenile Justice (care and protection of Children) Act, the age of delinquent children was under 16 for boys and girls under 18 years. In the 2000 law, the age of delinquent children was 18 years for both sexes. In the Youth Justice Act 2015, the age of juveniles was set at 18 years for both sexes, however, for heinous crimes; ages are set at 16 years for minors. According to international documents for the rights of children, The Beijing Rules, 1985 is a vital document for children around the world. The children are interested was primarily considered. This rule is framed as a standard minimum rule for every child. Under these standard minimum rules, the state will take care of the children. United Nations CRC, 1989 strong commitment to the care and protection of children in the whole world. In 1989, the Secretary-General of the United Nations emphasized that the state respects the rights of every child without discrimination of sex, birth, race, color, caste, religion, ethnicity, language etc.

India is the second largest country in the world in terms of view population. 19 percent of the world’s children live in India. Almost 44 percent total population of India is child population. In the 2011 population census age group 0-5 years (29 percent), followed by 6-10 (28 percent), 11-15 (27 percent) and the 16-18 age group (16 percent) was reported in India. Almost 50 per every cent of these children need care and protection.

A higher than average crime rate clearly means that urban children they are not only victims of such violence, but are at risk of becoming part of it organized crime, especially when faced with circumstances such as school disruption, dysfunctional family, lack of parental care and exposure substance abuse," the report says, highlighting the role of cities in increasing urbanization crime.

According to the report, the main crimes against children include human trafficking, abductions, rapes and murders of newborn babies, with the girl child being the most affected the spread of sex work in cities. In 2012, Bengaluru (India) topped the list. 88 cities across the country with 551 cases of crime against children, Mumbai is second with 570 and Delhi is third with 363 cases, the report said with reference.

The NCRB released its report on crime in India 2015 in the month of August 2016. According to this report, there were 24 cases per million registered under the total number of Indian Penal Code offenses in India in which 0.7 number of cases per million people were registered against juveniles in the conflict with the law under the Indian Penal Code during 2015. 0.2 cases per million were registered under the POCSO Act 2012 this year. Youth in conflict with of the Act, 5.2 percent of the total number of criminal cases according to POCSO Act, 2012.

India, like other countries, has made legal provisions that specifically address the rights and protection of juvenile offenders so as to handle the matter of misdeed. The Juvenile Justice System in India is predicated on three main assumptions:

1. Young offenders shouldn't be tried in courts, but rather corrected all told the most effective possible ways;
2. They ought to not be punished by the courts, but they ought to tend an opportunity to reform; and
3. Trials for kids in conflict with the law [[6]] should be supported non-penal treatment through communities-supported group action agencies, like Observation Homes and Special Homes [[7]].

JUVENILE JUSTICE IN REFERENCE TO THE CONSTITUTION OF INDIA

The **Indian Constitution** is considered the country's constitution. Citizens' rights and duties are outlined within the constitution. It also ensures the operation of the presidency machinery. Part III of the Constitution established fundamental rights for its citizens, and Part IV established the Directive Principles of State Policies (DPSP), which function as general guidelines within the formulation of state policies. The constitution includes some fundamental

rights and provisions, particularly for the welfare of youngsters. For example:

1. Right to free and compulsory educational activity for all the youngsters under the age of 6 to 14 years. (Article 21A)
2. Right to be protected against any hazardous employment under the age of fourteen age. (Article 24)
3. Right to be protected against being abused in any form by an adult. (Article 39e).
4. Right to be shielded from human trafficking and compelled bonded labour system. (Article 39)
5. Right to be supplied with good nutrition and proper standard of living. (Article 47)
6. Article 15(3) of the Constitution of India provides special powers to State to create any special laws for the upliftment and therefore the betterment of youngsters and girls.

As a result, when drafting the Juvenile Act, of 2015, lawmakers took into consideration all of the mandatory provisions outlined within the Constitution to confirm that children's rights are protected all told possible ways.

This is why Chapter IV of the Act establishes provisions for the betterment of juveniles and focuses on the Reformation and Rehabilitation of Juveniles in altogether possible circumstances.

Juvenile Courts

There is a committee structure in situ to analyze and listen to juvenile law violations.

The presiding judge and two social workers, one amongst whom must be female, comprise the board of directors. Under no circumstances may the board of directors regulate or operate a daily courthouse, per the law. The choice of the chief judge is final. Special Procedures in Juvenile Court: The law establishes procedures for juvenile offenders.

The following are the most special procedures.

1. a complaint filed by officers or citizens can't be wont to start legal proceedings during a case.
2. Hearings must be casual and strictly confidential.
3. Offenders must be monitored even after they're released from custody.
4. Judges make decisions on minors who break the law.
5. When the committee isn't in session, children who are in violation of the law could also be mentioned as individual committee members.

Criminal Justice (Reformative or Punitive) and Juvenile

Under the Indian system, Juvenile Justice could be a legal framework that defines justice for juveniles. Misbehaviour is given special treatment and

protection by the system. A criminal offence committed by a minor under the age of 18 is observed as Misbehavior. Everyone seems to be aware that there's an increasing rate of juvenile crime, and this increasing rate has created a contentious issue of old determination. Age is considered one of all the foremost important factors in determining the accused's maturity level. The rising rate begs the question of whether a juvenile is often tried as an adult or not. The act itself provides a solution to the question that no juvenile offender who meets the definition of "child in conflict with the law," as defined in Section 2 of the Act, shall not be tried as an adult and shall be sent to a toddler Care Centre or any Rehabilitation Centre (till the offender attain the age of 21 years and so he or she may shift to the jail or prison).

Thus, this Juvenile Law in India prioritizes Age Determination in determining whether an offender falls under the purview of the Juvenile Justice Act.

According to the Act, the most term of punishment which will be imposed on juvenile offenders is three years, and this punishment is additionally applicable to heinous crimes. Within the case of an adult offender, the utmost punishment is 7 years in prison, life in prison, or execution. However, in the case of juvenile offenders, the Act places the maximum amount of emphasis on juvenile reform as possible. Under the Act, the reformation variety of punishment includes: – sending juveniles to Rehabilitation Centers, Juvenile Schools, or requiring them to participate in various programs travelled by the govt. or non-governmental organizations.

In the current situation, there's no reason to allow such a minor form of punishment for a heinous and harsh offence solely on the premise of old determination or age factor. Rape is rape; one cannot leave claiming age, mental incapacity, or mental unfitness.

As a result, the present law, called age determination or age consent, has no deterrent effect on youth antisocial behaviour. Juvenile offenders believe that committing heinous crimes isn't a controversy because they'll receive little or no punishment within the name of reformation.

Adopting of the reformatory theory of punishment by law is giving an undue advantage to juveniles to perpetuate their ability to commit crimes without facing any harsh consequences. Reformation is nice but not always. If the law is talking about reforming juvenile offenders so they will have a higher life in future then the law should also talk about the rights of the victim. Justice must run to the victim. The speculation of reformation helps juveniles to reform but it's not helping the victim the least bit.

The present juvenile system in India is formed on the belief that juvenile offenders may be reformed

and rehabilitated, sending them to bars or prisons will visiting reaffirm their status and identity as "criminals". Now the question arises is that there's no guarantee that juvenile offenders will get reformed and cannot show their anti-social behaviour again.

The act is totalling and specialises in the reformation instead of penalization. Penalization will certainly will create a deterrent effect on the juvenile and the increasing rate of crime by juveniles will bog down.

The doctrine of 'DOLI INCAPAX'

The law presumes that a toddler under the age of seven may be a 'Doli Incapax.' this implies that the kid lacks the mandatory ability to understand the character and consequences of their actions and, as a result, is unable to make a provision.

Doli Incapax may be a Latin term meaning "unable to cause harm," and it's been utilized in legal code to presume a child's innocence. The principle of Doli Incapax is predicated on the concept of criminal responsibility, which states that someone must be held criminally to blame for the activities intended to be committed.

Most countries recognize Doli Incapax. This principle is roofed by sections 82 and 83 of the Indian legal code. The Code of Criminal Procedure recognizes that children under the age of seven are unable to grasp the character and consequences of their own actions and grants them complete immunity for any offense committed.

In the case of Kaku v State of Himachal Pradesh[[8]], the accused 13 years old committed rape on a baby of two years old and was thus sentenced by the tribunal to rigorous imprisonment for 4 years, which was upheld by the court. On pleading Sections 82 and 83 of the IPC, the Court considered the facts of the case and determined that the punishment should be reduced to at least one year of rigorous imprisonment with a fine and 6 months of rigorous imprisonment for failure to pay the fine. The convict was also said to be kept breaking free from the adult prisoners.

Specific provisions of the legal code and relevant case laws

Sections 82 and 83 of the I.P.C., 1860 address the exclusion of juveniles from prosecution.

The Supreme Court reduced the prison sentence of a 13-year-old boy who raped a 2-year-old girl in the case of Kakoo v. Union of India. Sections 83 and 84 of the IPC, which state that juveniles cannot be treated as adults, were considered by the court. As a result, when addressing juveniles, it's well-established law that the court must consider both reformatory and humanitarian perspectives.

However, in Heeralal v. Union of India, a baby threatened an adult by chopping him into pieces and stabbing an individual to death. The judiciary convicted him, citing the very fact that the boy was of legal age. The petition was also rejected by the apex court.

Satya Deo v. State of Uttar Pradesh[[9]] held that a child will not be denied his right to be treated as a juvenile at the time of the commission of an offense if he was under the age of 18, even if the offense occurred prior to the implementation of the Act of 2000. Section 25 of the 2015 Act states that the 2000 Act will continue to apply to cases that were pending prior to the passage of the 2015 Act.

In Salil Bali v. Union of India[[10]], it was argued that the current Juvenile Justice Act should be amended to lower the age from 18 to 16 years and that juveniles who commit heinous crimes such as rape and murder should be tried as adults. The Supreme Court rejected the petition, ruling that the Juvenile Act is founded on sound principles and is in accordance with the Indian Constitution. Several international instruments, such as the Beijing Rules and the Riyadh Guidelines, recognize child rights and allow for separate criminal justice systems for juveniles.

Conclusion

Children are without a doubt the world's future. More reform legislation aimed at preventing such juveniles is desperately needed to secure their future and the future of society. It will contribute to making the world a better place and may reduce the likelihood of future crimes. Even juvenile delinquent acts by children can have a significant impact on their future and must thus be addressed at an early stage. The rising rate of juvenile delinquency in India is cause for concern and requires immediate attention. Although the government has enacted various laws and regulations to reduce the occurrence of juvenile offenses, current juvenile laws do not have a deterrent effect on juveniles, so the results are ineffective and the legislative intent is not being met. To address the issue of juvenile delinquency, everyone has a role to play, such as society, parents, rehabilitation facilities, and so on. If all of these factors come together, this real-life problem will be solved in no time.

References

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- [2] Section 82 of IPC states that a child below the age of seven years is *Doli Incapax*
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[6] Section 2 (13) of the Juvenile Justice (Care and Protection) Act, 2015

[7] Section 48 of the Juvenile Justice (Care and Protection) Act, 2015

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[9] AIR 2019 SC 860

[10] (2013) 7 SCC 705

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