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Examining the Juvenile Justice System in India: A Critical Analysis with Emphasis on Juvenile Delinquency

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In recent times, the cases of Juvenile delinquency have increased, not only in India but around the world and the practices of juvenile delinquency need to be curbed. To do the same, there must be appropriate laws in place. India has brought in the Juvenile Justice (Care and Protection of Children) Act, 2015¹ and that has changed the way juveniles were looked at in India and the ways of their justice system. In this article, the author will first be dealing with the international framework for Juvenile delinquency. This article also looks into the historical perspective and causes of Juvenile delinquency. This article further goes on to discuss the statutory provisions relating to Juvenile Justice and it also analyses the recent act of 2015. Finally, this article suggests some improvements which can be made to facilitate a better Juvenile Justice System.

Keywords: *juvenile justice, juvenile delinquency, misbehavior, child friendly.*

¹ Juvenile Justice (Care and Protection of Children) Act 2015

“A nation’s children are its supremely important assets and a nation’s future lies in their proper development. An investment in children is indeed an investment in the future; a healthy and educated child is the active and intelligent citizen of tomorrow.”

- Rabindra Nath Tagore

INTRODUCTION

A child is born guiltless, and on the off chance that they are raised with sensitive encouragement and regard, they will develop into positive people. The physical, mental, moral, and extraterrestrial growth of children prepares them to reach their highest level of ability. However, unfavorable circumstances, a disregard for needs, an unwise organization, and various mistreatments can turn a young person into a troublemaker. Children gradually appear to have developed articulations as well as significant areas of strength for have and dislike because of compelling social examples. These characteristics further render young people defenseless against the schemes of thieves, including those of victimizers, sellers, and traders. Furthermore, kids' psychic development is significantly influenced by the media. As correspondence innovation has advanced, a child's exposure to media outlets like TV, radio, music, computer games, and the Internet has considerably increased.

Around 40% of India's population is under the age of 25, and the nation has a National Policy for Children that affirms children as a valuable resource for society.² Despite this, the majority of young people in India continue to live in destitution. All of India pledged to work towards ensuring that its youth take advantage of all of the opportunities enumerated in the United Nations Convention on the Rights of the Child. In India, both the number of violations committed against minors and those committed by them has increased. Children's offenses

² 'National Plan of Action for Children, 2016: Safe Children- Happy Childhood' (Ministry of Women and Child Development, 2016) <<https://wcd.nic.in/sites/default/files/National%20Plan%20of%20Action%202016.pdf>> accessed 07 April 2023

increased by 97.9% between 2003 and 2004, with more kids being arrested for fire-related crimes, burglaries, and deception.³

“Adolphe Quetelet, a renowned social statistician from Belgium, observed that adolescents, especially young boys, are more likely to engage in crime, disorder, and delinquency due to their immaturity or adolescent conflict. He said that the age when strength and passions are at their peak but when reason does not have adequate control to subdue their combined influence is when criminal propensity is at its highest. Children deserve compassion and the best treatment because the future of a country relies on the next generation; doing so will help safeguard this valuable human resource. A child is born innocent and, if given loving care and attention, will develop their physical, moral, spiritual, and mental abilities, becoming a person of stature and excellence. However, unhealthy surroundings, a lack of attention to basic requirements, unsavory company, and other abuses and temptations would spoil the kid and make him more likely to become a delinquent.”

JUVENILE DELINQUENCY

When a child defies the law, this is referred to as teenage misconduct. Misconduct is violent, lone-wolf behavior that is done by someone under the age of 18—in other words, by a minor. The term "misconduct" is used to refer to juvenile misbehavior. When a person reaches maturity, their aloof or criminal behavior becomes an offense under the law. As a result, children and teenagers may depict adolescent misbehavior as criminal behavior. Wrongdoing has been a major problem since the beginning of time. It occurs when someone breaks the law intentionally through exclusion, express display, or negligent carelessness. A child is born credulous, but the person may infer this from an unfavorable environment, the lack of necessary conditions, or some unsavory organization. Even though someone should typically have a strategy to break the law to commit a wrong, this isn't usually the case. The adage "obliviousness of the law is no exclusion" refers to the fact that someone can still be held accountable for breaking the law even if they are unaware of it. As a result, when given the chance to be justified for their legitimate

³ 'Crime in India 2015' (National Crime Records Bureau, 2015)

<https://ncrb.gov.in/sites/default/files/Statistics/Statistics-2015_rev1_1.pdf> accessed 07 April 2023

ignorance, adolescents are treated differently under the equity paradigm. A wrongdoing is defined as an act or omission that causes damage to the public that the state intends to prevent and that, if proven guilty, is punishable by a fine, care, or even death. There is no such thing as a crime unless it is broadly defined as such by the laws of the country. Some offenses, such as burglary or criminal harm, may be seen as common disasters for which the offender may seek redress.

The term 'Juvenile' is used for a person, who is under 18 years of age. The JJ Act, 2015 defines a 'juvenile' as a child who is under 18 years of age.⁴ The juvenile's age was again increased to 18 years by the Juvenile Justice (Care and Protection of Children) Act 2000. According to this Act, 'Juvenile' means a person under the age of 18 years.⁵ Act 14 was enacted to express dissatisfaction with the Juvenile Justice Act 1986. In this context, the following proposals were made: -

- To follow and bind along with the UNCRC;
- To recommend an age limit of 18 years for both boys and girls.

In the case of *Pratap Singh v State of Jharkhand*, the Supreme Court was asked, "Will the date of the alleged offense be the reckoning date for determining the age of the alleged offender as a juvenile offender or the date when he is produced in court?" According to the court's ruling, "the reckoning date for determining the age of the date of the offense and not the date when he is produced before an authority or in court."⁶

The Patna High Court noted in *Shyam Narayan Singh v State of Bihar* that the juvenile accused's age was established using the age stated in the evidence presented to the magistrate, and that evidence had not been claimed by anyone else.⁷

⁴ Juvenile Justice (Care and Protection of Children) Act 2015, s 2(35)

⁵ Juvenile Justice (Care and Protection of Children) Act 2015, s 2(k)

⁶ *Pratap Singh v State of Jharkhand* (2005) 3 SCC 551

⁷ *Shyam Narayan Singh v State of Bihar* (1993) Cri LJ 772 (Pat)

Juvenile Delinquency includes two kinds of conduct:

Status Offences: A kid may not engage in an activity that is permitted for adults because it is deemed too delicate or unhealthy for them.

Delinquent Offences: These types of behavior are against adult-specific law regulations. Murder, rape, assault, harassment, abuse, theft, criminal breach of trust, property destruction, etc. are examples of delinquent offenses.”⁸

Running away from home without caretakers' permission is one example of wrongdoing. Habitual behavior out of parental control, staying dormant after cutoff times, using offensive language, wandering through railroad or roadside commercial districts, going to a gambling establishment, engaging in sexual crimes, shoplifting, stealing, and other such behaviors. A complex problem like adolescent wrongdoing cannot be resolved solely through legislative and administrative efforts. Many of the laws governing child security in other states have not been successfully implemented in India. Some of these Acts have flaws that they created themselves. Ineffective use of official mechanical construction is being made of this problem. Government and confidential elements should work together with sincerity and realism to find a workable solution to the problem of an adolescent's delinquent behavior.

CAUSES OF JUVENILE DELINQUENCY

Individual Factors: A person's late advantage can result from a variety of circumstances. Unlucky-minded adolescents who have not received enough tutoring are more likely to engage in delinquent behavior. Other potential contributing factors include impolite behavior, exaggerated anger, and a refusal to acknowledge needs. Personal characteristics include psychic health concerns. In general, a person's public actions are largely influenced by his or her mental condition. These elements may then lead a teen to decide to engage in risky, harmful, and illegal activities.

⁸ 'Juvenile Justice System in India and Critical Analysis of the Juvenile Justice (Protection and Care of Children) Act, 2000 with Juvenile Justice (Protection and Care of Children) Act, 2014 (Amendment)' (2015) 2(12) Journal of Law Mantra <<https://journal.lawmantra.co.in/wp-content/uploads/2015/08/73.pdf>> accessed 07 April 2023

Family Factors: Family problems can include ongoing arguments within the family, abuse, and neglect, or inadequate parental guidance. Children who observe their parents' disregard for the law and national social norms may learn something very comparable. Additionally, children with the weakest ties to their families are frequently among the adolescents who engage in risky behavior.

HISTORICAL BACKGROUND OF THE JUVENILE JUSTICE SYSTEM IN INDIA

The Juvenile Justice Act of 1960, which was adopted by the government to provide consideration, security, treatment, improvement, and rebuilding to abandoned or defiant juveniles, was in effect throughout the country before the Juvenile Justice Act of 1986. As a result, India enacted the Juvenile Justice Act of 2000. The Juvenile Justice (Care and Protection of Children) Act, of 2000 became the primary regulatory beginning point for adolescent equity in India on December 30, 2000.

In 2006 and 2010, this motion was revisited once more. Following the attack in Delhi on December 16th, 2012, this law came under intense scrutiny for its shortcomings in handling breaches where young people are involved in serious crimes like assault and murder but are not charged. The Juvenile Justice Bill, of 2014, which later became the Juvenile Justice Act, of 2015, was approved by the government. It became active on January 15, 2016. "Males under the age of 16 and females under the age of 18 were categorized as juveniles under Section 2(a) of the Act of 1986."⁹

THE JUVENILE JUSTICE SYSTEM AN INTERNATIONAL PERSPECTIVE

"Due to their early stage of human development, juveniles require special attention and assistance for their physical, mental, and social growth as well as legal protection in conditions of peace, freedom, dignity, and security. However, the international recognition of juvenile

⁹ Juvenile Justice (Care and Protection of Children) Act 2000, s 2(a)

children's rights came very late in history. Though occasionally some people believe that the law has gone too far, social scientists pause to consider the way that their field is heading.”¹⁰

The sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Caracas, Venezuela, in 1980, presented five fundamental principles that it acknowledged should be addressed in many laws to be adopted for the association of juvenile value to protect the fundamental normal freedoms of children in matters of the law. “The regulations could then act as a guide for how the member states of the United Nations handle young offenders. The Congress suggested that the Economic and Social Council ask the Committee Crime Prevention and Control, a permanent committee, to create such regulations.”

According to UN standards and objectives, children's freedoms demand exceptional security and a stable environment. An Optional Protocol to the Convention on the Rights of the Child was adopted by the General Assembly of the United Nations because it was felt that children's rights should be protected by the UN Charter and laws governing general freedoms even in times of war or unfamiliar occupation. A Child's Right to Participate in Armed Conflicts on May 16, 2000, as part of the 26th Red Cross Red Crescent International Conference Conflict parties should, among other things, take all reasonable precautions to prevent the situation from escalating.¹¹

STATUTORY PROVISIONS IN INDIA

Following autonomy, several bills about children who needed care and security were drafted in Parliament; these bills were then debated and approved by Parliament. In any event, not all of them succeeded. This was the first teen equity law to be enacted after autonomy. The Juvenile Justice Act, also known as the Children's Act, was introduced in 1986 and included a few point-by-point agreements. Teenage stock agreements a framework called "juvenile equity" takes young people's consideration and protection into account. Support was given to the Juvenile

¹⁰ P.M. Bakshi, *Inaugural Address* (vol 7, KLJ 1981)

¹¹ ‘Strengthening the Convention of the Rights of the Child’ (UNICEF) <<https://www.unicef.org/child-rights-convention/strengthening-convention-optional-protocols>> accessed 07 April 2023

Justice (Children) Act of 2000, a comprehensive piece of legislation on adolescent justice. The most recent law is the Juvenile Justice (Care and Protection of Children) Act 2015.

Indian Constitution:

- **Article 14** - This Article of the Indian constitution provides for the right to equality that is the state shall not deny any person equality before the law.¹²
- **Article 15** - This Article of the Indian constitution provides that there shall be no discrimination against Indian citizens based on any category.¹³
- **Article 21(a)** - This Article talks about the right provided to every citizen (age 6 - 14 yrs.) a right to free education that is to be provided by the state.¹⁴
- **Article 24** - This Article mentions the right of the citizens of this country against any kind of exploitation against them. This Article states that no citizen (6-14yrs) shall be employed into factories or other sets of employment."¹⁵
- **Article 39** - This Article provides for a right to adequate means of livelihood that the state shall ensure for every citizen of the country.¹⁶

Indian Penal Code 1860

- **Section 82** - An act done by any person below the age of 7 years will not be counted as an offense.¹⁷
- **Section 83** - An act done by any person (7-12 years) will not be counted as an offense if he has no maturity to understand the gravity and consequences of his act.¹⁸

¹² Constitution of India 1950, art 14

¹³ Constitution of India 1950, art 15

¹⁴ Constitution of India 1950, art 21A

¹⁵ Constitution of India 1950, art 24

¹⁶ Constitution of India 1950, art 39

¹⁷ Indian Penal Code 1860, s 82

¹⁸ Indian Penal Code 1860, s 83

Criminal Procedure Code 1973

- **Section 27** – This section provides that the trial of a juvenile offender can only be done by a chief judicial magistrate as he has been authorized by this section.¹⁹

AN OVERVIEW OF JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2000

The Juvenile Justice (care and Protection of Children) Act, of 2000, which superseded the previous law, is an improvement over that law. By offering appropriate care, protection, and treatment as well as taking into account their developmental requirements, the law's article on juveniles in conflict with the law and children in need of care and protection amends those laws. This can be accomplished by using a child-friendly strategy when deciding cases in the best interests of children and for their long-term rehabilitation through the various institutions created by this law.²⁰

The Juvenile Justice Act of 1986 was consistently carried out throughout India, except in Jammu and Kashmir. The treatment of youths by various state general arrangements of laws varied before the passage of this goal, as each state had its young adult value guideline. The Juvenile Justice (Care and Protection of Children) Act, which was subsequently revived in 2006 to make it more receptive to making assumptions in the field of young adult value and UNCRC rules, was introduced in 2000 after the Juvenile Justice Act of 1986 was repealed. This was an important step taken by the government of India.

The Juvenile Justice Act of 2000 aims to enact and amend laws governing children who need care and protection and those who conflict with the law by providing them with genuine consideration, protection, and treatment that takes into account their developmental needs, adopting a teenager-friendly approach to dispute resolution for the benefit of kids, and reestablishing kids through various institutional components. “The Supreme Court has taken a very lenient stance towards juveniles. The Supreme Court ruled in a case involving this issue

¹⁹ Code of Criminal Procedure 1973, s 27

²⁰ R N Chaudhary, *Law Relating to Juvenile Justice in India* (4th edn, Orient Publishing Company 2015)

that a person under the age of 18 should not be subject to the death sentence back in 1977. The emphasis of the Borstal Acts and Reformatory Schools Acts was on children who committed crimes that could result in death or immurement."²¹

JUDICIAL DICTUM

Om Prakash v State of Rajasthan:²² In this case, the Supreme Court ruled unequivocally that medical opinion cannot be disregarded or treated as being of no import in a situation where the academic record isn't clear-cut and doesn't establish the majority of the accused. The testimony of the medical expert who performed the accused's ossification test and testified in court that the accused was 19 years old is significant in this context because it explicitly says that the accused wasn't a juvenile on the date the offense was committed. The Radiologist's testimony is also important to consider because he claimed that the accused is older than 18 and younger than 20 based on the x-ray images. Therefore, the medical examiners' opinion supported by the x-ray and ossification test will need to take precedence over the shaky evidence supported by the school records and a plea of circumstantial inference in a situation where the judiciary itself was unable to reach a definitive conclusion regarding the age of the accused."²³

Trikambhai Kavabhai v State of Gujarat: "Section 302 of the IPC was used to charge the defendant in this instance. He was unable to provide any supporting documentation for his claim of birthdate. The prosecution presented a school diploma on which the accused's father had written the date of the accused's birth, even though the accused was older than 18 at the time of the offense. According to a court order, an ossification test was also performed. According to a medical certificate on the results of the test and a radiological examination, the accused was between the ages of 18 and 20 when the crime was committed. Due to a mistake by the court in granting the accused a favorable variation of two to three years, the tribunal found that the order proclaiming the accused was improper."²⁴

²¹ *Raisul v State of UP* (1977) SC 1822

²² *Om Prakash v State of Rajasthan* (2012) (77) ACC 654 SC

²³ *Ibid*

²⁴ *Trikambhai Kavabhai v State of Gujarat* (2013) Cri LJ 1386

Chandan Kumar Gandhi v State of Bihar: “According to the Juvenile Justice (Care & Protection of Children) Act of 2000 and the Bihar and Central Rules made thereunder, the Patna State Court ruled that the Juvenile Justice Board must investigate the juvenile justice issue in this instance. The Board may need to perform an investigation first to do this. The board would be needed to push for the Bihar School Examination Board's officials to thoroughly examine the matriculation certificate. If that is confirmed to be true, then Manish Kumar would only need one piece of proof. The Board would be required to take note of the college officials who issued Chandan Kumar's transfer certificate and instruct them to provide an original admission register and other college records in which the appellant's date of birth was first entered. After taking into account these factors, the written report of a Board was established by the instructions of the Chief Judicial Magistrate of Muzaffarpur. Due to the board's independent jurisdiction over the matter, they would reach an independent conclusion in this respect without being influenced by any other order or orders of any authority or court.”²⁵

SUGGESTIONS

- The investigation site for minors should be designed to be kid-friendly, taking into account the young age of the offender. It is important to ensure that the proceedings are comfortable for the child. Additionally, during the process, the child's maturity level and the nature of the offense should be taken into account to ensure fairness.
- Records and files about the child should be kept properly to maintain accuracy and provide a comprehensive understanding of the child's background and history.
- It is essential to have at least one social worker with a law degree as a member of the Juvenile Justice Board (JJB) to ensure that the board is equipped with the necessary expertise to handle juvenile cases.
- Moreover, the JJB should provide the child, juvenile, and their parents with the highest level of service possible, including frequent advice and guidance. This approach can help

²⁵ *Chandan Kumar Gandhi v State of Bihar* (2010) Cri LJ (Pat) 1814

to ensure that the child receives appropriate care and attention during the proceedings and in the aftermath of any consequences.

CONCLUSION

India has the largest population of young people in the globe. The Indian Constitution ensures that all children in the country have basic rights and gives the government permission to make particular plans for them. The Directive Principles of State Policy specifically instruct the state to protect children under the age of eight from abuse and to ensure that children are given the opportunity and resources they need to develop properly in a free and honorable environment. It is the responsibility of the state to protect children from harm and material and spiritual abandonment¹. The profile of Indian children reveals that the vast majority of them are poor, struggling to afford sustenance and make important decisions.

The possibility of young adults acting badly is categorically no longer a concern in India. Teenage bad behavior is concerned with dishonest or extraordinary ways to deal with a young person's actions. Before the JJ Act of 2015 was introduced, there were no methods for identifying and classifying heinous crimes. After the shoot-wave of the Delhi Gang Rape (Nirbhaya's Case) shook the parliament with accusations of not having the option to adjust to the situation, the "Adolescent Justice (Care and Protection of Children) Act, 2015" was introduced. When severe offenses like homicide or sexual assault are committed, the age of an adolescent is deemed to be 16 years old under the provisions of the Act. For India's young adult value system, the Juvenile Justice (Care and Protection of Children) Act, 2015 is a fundamentally good development. The focuses, scope, game plans, definitions, and fundamental principles of the JJ Act, 2015, which have a valuable demeanor towards juvenile offenders, are not completely permanently established from the evaluation above.²⁶The state recognizes its obligation to impart ideas and authority to youth. Through government assistance programs and the juvenile justice system, it has been anticipated that wayward and underserved young people will receive this kind of

²⁶ Anuradha Palanichamy, 'Child Rights, Poverty and Protection: An Indian Perspective' (2016) 1(1) Journal on Rights of the Child <<https://www.nluo.ac.in/wp-content/uploads/2019/05/1.Vol-1.Issue-1-Journal-on-the-Rights-of-the-Child-2016.pdf>> accessed 07 April 2023

thought and affirmation. However, research has revealed that the strategies are absent and the juvenile justice system is ineffective.

“These strategy deductions make it reasonable to assume that the state is aware of the number of juveniles and children to whom it attempts to provide appropriate care and assurance and that the plan outlined in the regulation is suitable for releasing the state's obligations under the regulation. Unfortunately, not even the assessment date indicates how many children are under the age of 18. While there are a few raw data points available for the category of "adolescents," most of the child subgroups covered by the JJ (C&P) Act only have gauges available, and even those vary too widely from one another to be of any use in planning.”²⁷

²⁷ Ved Kumari, *The Juvenile Justice System in India from Welfare to Rights* (2nd edn, OUP 2010)