

Critical Analysis of the Juvenile Justice System of India

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Abstract: *The juvenile justice system in India plays an important role in protecting the rights and welfare of children caught up in the criminal justice system. This critical analysis throws light on various aspects of the system, assessing its strengths, weaknesses and the challenges it faces. By examining the legislative framework, institutional mechanisms and socio-legal dynamics, this study aims to provide nuanced insights into the effectiveness and shortcomings of the Indian juvenile justice system. The examination begins with an overview of the historical development of juvenile justice laws in India, tracing the evolution from the Juvenile Justice Act of 1986 to the current Juvenile Justice (Care and Protection of Children) Act. Changes are made to understand the evolution of the system and its alignment with international standards. The study critically analyzes the institutional infrastructure supporting juvenile justice, including Juvenile Justice Boards, Child Welfare Committees and Observation Homes. Evaluation of the capacity, efficiency and efficacy of these institutions form a central component of research, considering their impact on the rehabilitation and reintegration of juvenile offenders. Socio-economic factors influencing juvenile delinquency and the adequacy of rehabilitative measures are explored, questions of equity and social justice are addressed within the juvenile justice framework. Special attention is paid to marginalized and vulnerable groups, as the study seeks to uncover potential biases and inequalities in the treatment of adolescents from diverse backgrounds. In addition, research examines the age determination process and the resulting effects of treating some adolescents as adults in exceptional cases. It involves exploring the psychological and moral dimensions surrounding the theme of culpability and the ability of adolescents to understand the consequences of their actions. The study uses comparative analysis, drawing insights from international models of juvenile justice, with a focus on best practices that can inform potential reforms in the Indian context. Lessons from successful interventions around the world are examined to propose recommendations for strengthening the Indian juvenile justice system. Ultimately, this critical analysis aims to contribute to the ongoing discussion on juvenile justice in India by offering a comprehensive examination of the efficacy of the system and areas in need of improvement. By critically evaluating the legislative provisions, institutional framework and social factors, this study seeks to provide valuable insights to policy makers, legal practitioners and advocates working towards the advancement of juvenile justice in the country.*

Keywords: juvenile justice system

I. INTRODUCTION

The purpose of juvenile justice is based on the rights of children. Juvenile justice focuses on prevention as a primary objective while also considering the impact on the victim and the community and sanctions custody as a last resort and for the shortest possible period. A large number of 'children in conflict with law' are socio-economic victims, deprived of their rights to education, health, shelter, care and protection. This research contains a critical analysis of the Juvenile Justice (Care and Protection of Children) Act, which has been amended several times. But it still requires serious concern. It is true that sometimes the law must be changed according to the needs of the society. Reducing the age of juvenile from 18 to

16 years only in exceptional cases is not a solution to the large-scale involvement of juveniles in heinous crimes. After the unfortunate incident of Delhi Gang Rape case, there was a movement from all over the world to take serious action and prevent such heinous crimes in future. Surprisingly, one of the accused persons who was most actively involved in the act of brutal gang rape was a minor. The law blindly relies on the Latin phrase i.e. “*doli incapax*” which means a child is incapable of committing a crime. But, nowadays children are maturing faster day by day. Whether a child is mature varies from child to child and age to age. In such a situation, it is necessary to study various aspects of the present juvenile justice system, its shortcomings and necessary reforms.

The Juvenile Justice Act was enacted keeping with the standards of child protection provided under the Convention on the Rights of the Child, which India has ratified. The JJ Act is a central law that requires each state in India to set up infrastructure and protocols to ensure that the JJ Act provisions are implemented at the grassroots level. The JJ Act is essentially a social welfare law and hence under this Act juvenile delinquents are also treated as children in need of care, treatment, protection, and rehabilitation. But the gap between intention and behavior is huge. There are many factors responsible for this, ranging from ignorance to behavioral barriers. The main objective of this Act is the rehabilitation and improvement of children, but in its present form it falls far short of achieving this objective. Given the increasing involvement of children in serious crimes, especially in the 16–18 age group, the juvenile justice system in India proved futile in dealing with it. There is a set pattern on the age of criminal responsibility of juveniles that juveniles who commit crimes below a certain age are dealt with under the Juvenile Justice Act without considering the maturity level of understanding. Hence, for rehabilitation they are sent to special homes, but what kind of reformation are given to those who were involved in serious crimes. Therefore, the main issue is the punishment system adopted without considering the age of criminal responsibility of the juvenile and the maturity level of the juvenile. Fixing the age of criminal responsibility following the Convention on the Rights of the Child, even if scope is left for Member States to decide according to the circumstances prevailing in that particular State, is not a justifiable reason.

Historical Background

The Apprentices Act, 1850 was the first law to deal with children in conflict with the law. On November 20, 1959, the United Nations General Assembly met in a plenary session with representatives from 78 countries and unanimously adopted the Declaration of the Rights of the Child. India was a party to the declaration. In the same year, the Children Bill was introduced in Parliament. It was passed in 1960 as the first model central law on the subject. The Children Act, 1960 established two judicial bodies to deal with children in conflict with the law and children in need of protection and care, imposing death sentence or imprisonment on children and detaining children in prisons or stations but put a stop to it.

A year later in 1986, the Supreme Court in *Sheela Barse v. Union of India* ordered that appropriate delivery systems for juvenile offenders should be implemented in all states and reports of such enforcement should be reported back to the court. In the same year, Parliament passed the Juvenile Justice Act, 1986 (hereinafter referred to as JJA, 1986). However, this Act ceased to exist for a few years as the Parliament enacted the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as JJA2000). This Act, unlike the JJA 1986, moved away from the gender-discriminatory definition of juvenile and defined a child (whether boy or girl) as a person who has not attained the age of 18 years. This was done in keeping with the UNCRC (United Nations Convention on the Rights of the Child) norms as well as the global understanding of setting the cut-off age for criminal culpability at 18 years. As this Act keeps changing due to loopholes in it, we now have JJA, 2015 which was enacted after public pressure following the brutal gang rape case of Nirbhaya. One of the most controversial issues under Indian law is juvenile delinquency. A proper analysis can be properly done on a comparative perspective by looking at the historical development of juvenile justice since the British period. From the time the National Policy for Children was adopted till the implementation of the JJ Act, many types of laws were implemented for juveniles in different parts of the country. The original form of this Act, which was called the Children Act, was not implemented equally in all the states and districts of the country. There were states where either the Children Act was not enacted or if enacted, was not implemented. The applicable Children Acts are divided into two categories, the first category is

those which were enacted before the Children Act 1960 and the second includes the Children Acts passed after 1960. The principles of enforcement differed significantly under the three sets of laws. For example a convicted child aged 17 was entitled to child benefit in Gujarat and West Bengal, but not in Maharashtra. On the question of age, the Children Act before 1960 and the Children Act after 1960 were as follows:

In the pre-1960 Children's Act, the age of children ranged from 14 to 18 years, while in the post-1960 Children's Act, children were subject to law where boys under 16 and girls under 18. Amendments were introduced by the Children (Amendment) Act 1978 to remove certain variations in the operation of the Children Act 1960. Post this; Juvenile Justice Act 1986 was implemented in India from 2nd October 1987 with a uniform legal system for children.

The enactment of the JJ Act, 1986 resulted in a uniform definition of 'juvenile' for the entire country. The JJ Act 1986 was repealed and replaced by the Juvenile Justice (Care and Protection) Act 2000. This Act applies to persons who have not completed 18 years of age. It also marks a significant change as all previous Acts were not gender-neutral, but it has been made gender-neutral for the first time under the JJ (Care and Protection) Act, 2000. Subsequently, after the brutal incident of 2012, there is a matter of concern and demand was raised to make strict laws to control such accidents in future, due to which the 2015 Act was implemented. This is the first case of its kind in which age classification for a heinous crime committed by a child has been done in order to treat such a child at par with an adult in the Children's Court. The legislature's decision to assign age classification to punish children who commit heinous crimes is arbitrarily classified from a neuroscience point of view. According to the research done there the brain reaches its final maturity shape in the late twenties where we can hold them responsible for the acts that they are doing, hence based on these research the 2015 Act of Heinous Crimes This may prove to be unfair to children who come into conflict with the law.

Who is juvenile?

Before talking about the various crimes committed by juveniles, we must understand who a juvenile is. In simple language, a teenager is a child who has not achieved the age of maturity at which he can understand the difference between right and wrong. Legally speaking, a juvenile is a minor who has not attained a certain age at which he can be held liable for his criminal acts like an adult under the law of the country.

According to J.J.A.2015, a juvenile means a child below the age of eighteen years. It states that a juvenile should not be treated as an adult even if he is a child for the purpose of trial and punishment in a court of law. Also be involved in criminal acts. The law excludes juveniles under the age of 16 to 18 and if they have committed a heinous crime. This means that the court is free to decide whether a juvenile should be treated as an adult or not, and that too only in exceptional cases as stated earlier. This is a recent amendment brought by J.J.A.2015. Thus in India, when it comes to any crime committed by a juvenile, he is differentiated from that of an adult.

Who is a "child in conflict with the law"?

'Child in conflict with law' means a child who is accused or found of having committed an offence and who has not completed the age of eighteen years on the date of the commission of such offence.

Thus, from this definition it becomes clear that a child below 18 years of age will be considered a minor. Special provisions have been made in the Constitution of India under the chapter 'Fundamental Rights' for the overall development of children.

Specifically, Article 15(3) states that "Nothing in this article shall prevent the State from making any special provision for women and children." The Juvenile Justice Act is the result of this provision. The Indian Penal Code (45 of 1860), also protects children from criminal liability on the ground of infancy under sections 82 and 83. Now, the BNS also contains similar provisions. There is no doubt that all these provisions are for the betterment of children and good future prospects, but now it is time to think about those children who are involved in brutal crimes and surprisingly, they are teenagers. That means they are below 18 years of age. The effect of this minority is that the juvenile is completely exempted from criminal liability without considering the seriousness of the offence, the maturity of the juvenile and his behaviour. So sometimes the law forces us to think whether the law is in favor of teenagers?

NCRB data regarding crimes committed by juveniles

The latest data for 2014 released by the National Crime Records Bureau (NCRB) under the Home Ministry showed that the number of 'children in conflict with law' cases under various sections of the Indian Penal Code (IPC) has reached 33,526. . 5.7 per cent higher than 31,725 in 2013, while 5,039 cases were registered under various special and local law (SSL) offences, 21.8 per cent higher than 4,136 in 2013. In 2014, the number of theft cases was the highest at 6,717, which was 20 percent of all IPC cases. There were 1,989 cases of rape (5.9 percent) and 1,591 cases of assault on women with intent to outrage her modesty (4.7 percent). Other major cases were criminal trespass and theft with 2,546 cases (7.6 percent), grievous hurt with 1,568 (4.7 percent) and kidnapping and abduction with 1,455 (4.3 percent). Madhya Pradesh has been in the top position every year since 2001. Except in 2009 when it was second after Maharashtra. Of the 46,638 juveniles held for various crimes in 2014, 10,530 were illiterate and 15,004 had received only primary level education.

International concern for juvenile justice

The United Nations Institute for Asia and the Far East made important contributions in this direction, as a result of which in September 1985 the Seventh United Nations Congress on the Prevention of Delinquency and Treatment of Offenders adopted the Standard Minimum Rules for the Administration of Juvenile Justice. These rules were later adopted by the United Nations General Assembly in November 1985 and include the following basic principles:

- Juveniles in trouble with the law should be provided carefully constructed legal protection.
- Pre-trial detention should be used only as a last resort. Child and juvenile offenders should not be kept in a prison where they are vulnerable to the bad influence of adult criminals.
- Juvenile offenders should not be incarcerated unless there is another appropriate response that will protect public safety and provide the juvenile with the opportunity for self-control.
- Member States should strive individually and collectively to provide adequate resources so that every young person can hope for a meaningful and valuable life.

Need for change:

We should always protect the best interests of children while upholding their rights. While making changes in it, we should not forget the basic goals and objectives of the juvenile justice system. There was no need at all to reduce the juvenile age from 18 to 16 years as there was a possibility that a heinous crime could be committed again by a child below 16 years of age. Age should not be the only criterion for punishing a child, whether the child is mature enough to understand the consequences of his actions or not. As stated earlier, the age should not have been reduced from 18 to 16 years, but should have been reduced to 18 years under JJA, 2000. Children are becoming mature day by day, hence determining the age of the culprit has become quite a difficult task. In such cases, we would suggest that if it is proved beyond reasonable doubt that a child has committed a crime in a very barbaric manner and this comes in the rarest of rare cases then that child should be given more severe punishment. In Nirbhaya case the main accused should have been sentenced to more than 3 years and that too with rigorous imprisonment. Because he was capable of attacking her, capable of raping her then he is capable of suffering rigorous imprisonment as well as rigorous imprisonment. In such cases no leniency should be shown towards the accused person.

'Child in conflict with law', however if he commits any heinous crime then he should not be tried as an adult because if we keep him with hardened criminals, he may become hardened criminal in future too, Rather, we would suggest making it special. Provision in JJ Act, 2015 to empower Juvenile Justice Boards to rehabilitate the child along with imposing harsher punishment in the rarest of rare cases. Special homes have already been set up under JJA 2015 for 'children in conflict with law', where they can be kept for years, so there is no need to send juveniles to jails like hardened criminals. is not needed. Such a 'child in conflict with the law' will be given some hard labor work during his stay in the special home so that he can repent for his actions. Necessary steps will also be taken to provide him education in a special home. Further, 'children in conflict with law' should be segregated according to their age, nature of the offense committed by them.

Result Analysis

The juvenile justice system in India is an important component of the legal framework designed to protect the rights and rehabilitate young offenders. The proposal seeks to address emerging challenges within the system with a focus on enhancing its efficacy, ensuring fairness and promoting rehabilitation and reintegration of juvenile offenders. By identifying key areas for improvement, this initiative aims to contribute to a more responsive and equitable juvenile justice system in India.

This proposed work aims to catalyze positive changes within the Indian juvenile justice system, promoting more rehabilitative and equitable approaches. By addressing key challenges and introducing targeted reforms, we aspire to contribute to a system that not only upholds justice but also prioritizes the well-being and prospects of young offenders. This proposed work recognizes the significant need for reform within the Indian juvenile justice system. By addressing key challenges and proposing comprehensive measures, we aim to contribute to the development of a more equitable, rehabilitative, and compassionate system that upholds the rights and prospects of young offenders in India.

India's juvenile justice system aims to address juvenile delinquency by ensuring rehabilitation and reformation rather than punitive measures. However, a critical analysis reveals several challenges and achievements in the implementation of the system. A major finding is that while the system emphasizes rehabilitation and reintegration, in practice, there is an inequity. Juvenile homes often lack adequate infrastructure, trained professionals and rehabilitation resources, which hinders effective reformation. Amendments and Controversies: The 2015 amendment to the Juvenile Justice (Care and Protection of Children) Act stirred controversy by allowing juveniles aged 16-18 years involved in heinous crimes to be tried as adults. The analysis reveals differences of opinion on this. Critics argue that it undermines the reformatory philosophy of the juvenile system, while supporters claim that it is necessary to address serious crimes committed by older juveniles.

Judicial Processes:

Research highlights inefficiencies in judicial proceedings for juveniles. Delays in adjudication and pendency of cases often result in juveniles being confined in observation homes, affecting their mental health and future prospects.

Gaps in implementation:

An important observation is the inconsistency in the implementation of juvenile justice laws across states in India. Rural areas and smaller towns often lack proper juvenile courts and rehabilitation centres, leading to unequal access to justice and protection.

Rehabilitation and social reintegration:

The analysis shows that reintegration into society after rehabilitation is one of the weakest aspects of the system. Stigmatisation of ex-adolescents and inadequate follow-up mechanisms contribute to high rates of recidivism.

Child protection and vulnerability:

The system struggles to meet the needs of vulnerable children, especially those from poor backgrounds or victims of abuse. The analysis points to gaps in protective frameworks for children in conflict with the law and those in need of care and protection.

II. CONCLUSION

The critical analysis shows that the juvenile justice system in India has strong legal foundations, but its effectiveness is limited due to implementation challenges. The system needs better infrastructure, trained personnel and a more consistent approach across states to truly achieve its reformatory and protective goals. The balance between rehabilitation and accountability remains a central debate in its future development. India's juvenile justice system is designed to address juvenile delinquency, with a focus on rehabilitation and reform rather than punishment. A critical analysis of the system highlights both strengths and significant challenges in its implementation. A 2015 amendment to

the Juvenile Justice (Care and Protection of Children) Act introduced a provision to try juveniles aged 16– 18 years as adults for heinous crimes, sparking debate. Critics argue that this undermines the rehabilitative focus of the system, while supporters believe it addresses the gravity of some crimes. Rehabilitation efforts are often inadequate due to poor infrastructure, a lack of trained professionals, and limited resources in juvenile homes. The system struggles with delays in judicial processes, leading to long stays in observation homes, which can negatively affect the mental and emotional health of juveniles. In addition, discrepancies in law enforcement and infrastructure across different regions, especially rural areas, lead to unequal access to justice and rehabilitation services. Social integration after rehabilitation remains a significant challenge, with many juveniles facing stigma and inadequate support, contributing to high rates of recidivism. Additionally, vulnerable children, particularly those from poor backgrounds, often do not receive the protection and care they need within the system. In summary, while India's juvenile justice system has a strong legal framework, its effectiveness is hampered by inconsistent implementation, inadequate resources, and challenges in balancing rehabilitation with accountability for serious crimes.

REFERENCES

- [1]. Sagnik Datta, Government giving into reactionary ideas, Frontline, The age of unreason, (22nd January, 2016).
- [2]. N.V. Paranjape, Criminology and Penology with Victimology, 580 (Central Law Publications, Allahabad, 15th edn., 2012).
- [3]. P.M. Bakshi, The Constitution of India, 35 (Universal Law Publication, 13th edn., 2015).
- [4]. Available at <http://ncrb.gov.in/StatPublications/MAPS-2014/cii-2014%20maps/CII2014-JuvenileCrime.pdf> [accessed on 23/07/2016 at 8:10 pm].
- Jhuma Sen, “Regressive Step”, Frontline, The age of unreason, (22nd January 2016), 12-13.
- [5]. S. 2(35), The Juvenile Justice (Care and Protection of Children) Act, 2015.
- [6]. Oxford university press(2010).Transforming juvenile system justice reform details and institutional realities examines the ties and competing(Knowles et al. 2018) interest of an early juvenile court and reform school. Historical analysis of newspaper articles and count down is used to examine the creation of the juvenile justice system.
- [7]. Preston Elord.R.Scott Ryder (2013).Discrimination in the handling of juvenile offenders by socio control agencies. Race effects in juvenile justice today clearly represent crime and delinquency. Race effects in juvenile justice decision making findings of a state wide analysis.
- [8]. Karim Jemali(2010).Analysis of state legislation and current practice indicates that juvenile justice totally clearly represents a mix of punitive and rehabilitate approaches and the state very dramatically in the extend to which they towards.
- [9]. Moktadir, A., Ali, S. M., Jose, C., Jabbour, C., Paul, A., Ahmed, S., Sultana, R., & Rahman, T. (2019). Journal Pre-proof
- [10]. WHO. (2021). The WHO Prison Health Framework.
- [11]. Fagan, J., & Meares, T. L. (2005). Punishment, Deterrence and Social Control: The Paradox of Punishment in Minority Communities. SSRN Electronic Journal.
- [12]. Osaghae IP, Eriamiator CO, I. L. (2019). Pattern of orofacial injuries between the genders following interpersonal conflicts in Benin-City, Edo State, Nigeria. Nigerian Journal of Dental and Maxillofacial Traumatology, 2(1&2), 43–50.
- [13]. Chileshe, N., Njau, C. W., Kibichii, B. K., Macharia, L. N., & Kavishe, N. (2022). Critical success factors for Public Private Partnership (PPP) infrastructure and housing projects in Kenya. International Journal of Construction Management, 22(9),
- [14]. Evans, P. (1996). Introduction: Development strategies across the public-private divide.
- [15]. Winterdyk, J., Antonopoulos, G. A., & Corrado, R. (2016). Reflections on Norway's juvenile justice model: A comparative context. Crime Prevention and Community Safety
- [16]. Feld, B. C. (1995). Violent Youth and Public Policy : A Case Study of Juvenile Justice Law Reform Violent Youth and Public Policy : A Case Study of Juvenile Justice Law Reform. 965.

- [17]. Sharma, D. (2022). An Analytical Study of Juvenile Delinquency in India with Reference to 2021. Legal Research Development: An International Refereed e-Journal.
- [18]. Azka Murtaza, Dr. Yasir Nawaz Manj, Dr. Arshad Hussain Hashmi, Muhammad Umar Zara, Dr. Manzoom Akhtar, & Ali Asfand. (2021). Causes Leading To Juvenile Delinquency: a Case Study Conducted At Punjab, Pakistan. Khaldunia - Journal of Social Sciences
- [19]. Khushi Khandelwal (2020), JUVENILE JUSTICE SYSTEM, Burnished lawjournal.in, VOLUME 1 ISSUE 3 2020 2582-5534
- [20]. Pragati Yadav (2020), "Comparative Study between World's Best Juvenile Justice System to Indian Juvenile Justice System", <http://www.penacclaims.com/>, Volume 11, July 2020 ISSN 2581-5504
- [21]. Durga v State of Rajasthan D.B. Criminal Appeal No. 27/2019 (High Court of Rajasthan). Radhika v State of Uttar Pradesh 2019 SCC OnLine All 4911
- [22]. Ujjwala Sakhalkar, Dr. Jyoti Dharm, The Juvenile Justice System In India: Reviewing Laws, Policies And Programmes For Children In Need Of Care & Protection. Journal of the Gujrat Research Society, ISSN: 0374-8588 Volume 21 Issue15, December 2019.
- [23]. Shailesh Kumar (2019), Shifting Epistemology of Juvenile Justice in India, Contexto Internacional vol. 41(1) Jan/Apr 2019 <http://dx.doi.org/10.1590/S0102-8529.2019410100006>
- [24]. Deepshikha Agarwal, (2018), JUVENILE DELINQUENCY IN INDIA- LATEST TRENDS AND ENTAILING AMENDMENTS IN JUVENILE JUSTICE ACT, PEOPLE: International Journal of Social Sciences ISSN 2454-5899. Pp-1365-1383
- Williams, K. S. (2012) "Criminology", U. K., Oxford University Press.
- [25]. Tyagi, Malvika, (2016) Analysis of Juvenile Crime, Economic and Political Weekly, 51 (51): 17-21