

JUVENILE JUSTICE AND PROPOSED LAWS

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ABSTRACT

Juvenile Delinquency is a behavioral disorder due to which a child tries or pretends to grow like an adult. As a result, the concept of juvenile justice has evolved and become an integral part of criminology. After adopting numerous UN treaties on children's rights, India has passed various legislation to protect children's rights in the country and determine the age at which a person is considered a child. Accordingly, punishments were given by the competent authorities. There were various amendments in the Juvenile Justice act from 1986 till 2015. The reason behind the latest amendment of 2015 in the act was the landmark case of Nirbhaya Delhi gang rape where out of 6 perpetrators, 1 was a child later included as a juvenile under Juvenile Justice Act, 2015. The research paper focuses on the concept of Juvenile Delinquency, Juvenile Justice, and its proposed laws and acts.

Keywords: Juvenile, Juvenile Delinquency, Guidelines, Minor, Juvenile Justice Act.

INTRODUCTION

“A child's mind is more like a fire to be ignited than a container to be filled.” As he grows older, he will be inspired by the surroundings and social context that surrounds him. He is a member of a society in which he is born, grows up, lives, and dies. A juvenile seems to be a young person who has not achieved his or her country's legal age of majority and who shows no resemblance to an adult who could be held legally liable for his or her illicit conduct. After adopting numerous UN treaties on children's rights, India has passed various legislation to protect children's rights in the country and determine the age at which a person is considered a child. A child or adolescent is defined by the United Nations Convention on the Rights of the Child (UNCRC) to be 18 years old. The year 2000 defines a young person or child as someone who has not yet reached the age of 18.

Since most young people are youthful and don't think like grown-ups, they are bound to perpetrate wrongdoings over which they have no control. The demonstration of perpetrating

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wrongdoing at a youthful age is known as juvenile misconduct. A juvenile delinquent is a minor (commonly younger than eighteen) who violates a state or government law. They break the law for a variety of reasons, and a lot of elements contribute to adolescent delinquency. Such factors can be broadly categorized as the disintegration of a family system, economic condition, and poverty, lack of communication, migration, sex indulgence, modern lifestyle, etc.

According to NCRB's latest report on 'Crime in India' for the year 2018, a total of 31,591 offences perpetrated by minors were registered during the reporting year. According to the report, the majority of the crimes were crimes against the human body and property. Furthermore, IPC-related offences accounted for 92 percent of the instances involving adolescents. The majority of cases, including both IPC and SLL, involved violations involving bodily harm (37.7 percent). Among the many examples given were harm and grave hurt (47 percent), rape (13 percent), and attack on women to insult their modesty (12 percent). Furthermore, the research stated that 99.3 percent of the juveniles were boys, with three-quarters of them being between the ages of 16 and 18.

INITIATIVES ARE TAKEN BY UNITED NATIONS



The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985, normally known as the Beijing Rules, were ordered on November 29, 1985, because of the critical need to ensure kids' prosperity. The goal of enacting such guidelines was to strengthen the juvenile justice system around the world. The goal and purposes of such rules are defined in Rule 5, which is outlined as follows.

- Because these juvenile offenders are treated by family courts or administrative authorities, criminal courts need to consider their well-being to ensure that the decisions imposed are not merely punitive damages. The fundamental reason is the juvenile's emotional, mental, and physical well-being.
- The second objective behind such rules is the principle of proportionality. The severity of the offense committed, as well as the offender's personal circumstances, such as familial position, social status, and so on, should be considered in the response and reformative measures given to juvenile offenders.

- The Beijing Rules also recognized certain minimum rights which are given to the offenders as elaborated under rule 7.

These rights are protected at all times during the proceedings:

1. Presumption of Innocence
2. Right to receive notification of charges
3. Right to silence
4. Right to advise
5. Right to witness legal guardian or parent
6. Right to face and cross-examine witnesses
7. Right to raise an appeal to a higher authority



With respect to a statutory agent, the juvenile must have the right to be represented by a lawyer throughout the procedure or to receive free legal assistance if available in the country. The United Nations has taken a step in this direction by adopting the Convention on the Rights of the Child (CRC) in 1989 and guaranteeing children's rights. It is a legally binding international treaty that establishes the civil, political, economic, social, and cultural rights of all children, regardless of ethnicity, religion, or ability. It consists of 54 articles that set out children's rights and how the government should work together to give all children access to children's rights. According to the Convention, the government is obliged to help children meet their basic needs and reach their full potential.

- Survival and evolution of life
- Protection from misuse or disregard;
- Education that permits kids to arrive at their maximum capacity
- To be able to voice their opinions and be heard.

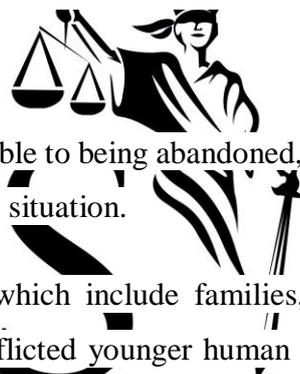
Further, in UNCRC, two protocols were added in the year 2000, which states that:

1. The public authority should guarantee that no kids younger than 18 are constrained to join the military.
2. States should prohibit kid prostitution, youngster porn, and the subjugation of kids.

Afterward, from 2011, a discretionary convention was added that permits kids who have had their freedoms encroached to document a grumbling straightforwardly with the United Nations Committee on the Rights of the Child. **The United Nations passed the Recommendations for the Prevention of Juvenile Delinquency, sometimes known as the Riyadh Guidelines, in 1990.,** to prevent juvenile delinquency. These recommendations are multidisciplinary and intra-disciplinary procedures designed to prevent young people from being pushed to conduct crimes, victimisation, or legal conflict.

It consists of three main objectives:

1. Juvenile delinquency prevention measure.
2. Protective intervention for younger folks that are susceptible to being abandoned, neglected, or mistreated, in addition to having a marginalised dwelling situation.
3. They need to inspire numerous social organisations, which include families, academic institutions, and the media, to work collectively to help afflicted younger human beings and get better their faith and lives.



The Vienna Guidelines for the Protection of Children, commonly known as the Guidelines for Action on Children in the Criminal Justice System, were established by the United Nations in 1997. These rules were written not only for governments but also for NGOs and the media.

INDIAN PERSPECTIVE

During the last few decades, it has been noted that the crime rate among youngsters under the age of 16 has risen. The reasons behind this can be traced back to the child's upbringing, financial hardships, a lack of education, and parental care. Children between the ages of 5 and 7 are also increasingly being used as a tool for committing a crime, as their minds are still fairly innocent at this age and are readily misled.

Prior to 1960, there was no uniformity in India when it came to the age limit for juvenile delinquents because each state had its own children legislation, and the age group fluctuated from one state to the next. For example, the Bombay Children's Act of 1948 provided distinct age limits for considering them a kid, with a boy being considered a child if he is under the age of 16 and a girl being considered a child if she is under the age of 18. Under the UP Children Act, anyone under the age of 16 was considered a child, regardless of gender. In 1959, India became a member of the United Nations Declaration on the Rights of the Child, and the Children Act of 1960 was passed the same year. Any person who has not reached the age of 14 is considered a kid under this act.

India repealed the Children Act 1960 and enacted the Juvenile Justice Act 1986 after the United Nations adopted the Standard Minimum Rules for the Administration of Juvenile Justice in November 1985. According to this statute, girls and boys were not referred to by a consistent age, which was 16 years for boys and 18 years for girls. It defines a delinquent juvenile as one who has been found guilty of an offence, and a neglected juvenile as one who is found begging, without a home or established place of habitation, and without any ostensible means of support and is impoverished, or who has a parent or guardian who is unfit or incapable of supervising the juvenile, among other things. Both neglected and delinquent children were held at the Observation Home until their investigations were finished. Neglected children were placed in juvenile homes after an investigation, while delinquent children were placed in special facilities. The United Nations adopted a convention on the rights of the child on November 20, 1989, which states that a person must be under the age of 18 to be considered a child. As a result of this development, the 'Juvenile Justice Act of 1986' was repealed by the 'Juvenile Justice (Care and Protection Act) of 2000', which set the age of 18 for both males and girls.

Factors leading to the replacement of 'Juvenile Justice (care and protection act), 2000' to 'Juvenile Justice (care and protection of children) act, 2015'¹

- The western world inspired children, as evidenced by their careless attitude.
- Minors' involvement in unlawful activities has increased. Theft-larceny, assaults, substance abuse, and other crimes are examples.

¹ Juvenile delinquency in India causes and prevention, <http://www.legalserviceindia.com/legal/article-1724-juvenile-delinquency-in-india-causes-and-prevention-.html>

- From 2012 to 2014, the number of offences perpetrated by adolescents increased by 30%.
- Juvenile criminality increased from 1% to 1.2 percent between 2003 and 2013, according to data supplied by the National Criminality Record Bureau (NCRB).
- Between the ages of 16 and 18, 70 percent of the recorded juvenile crimes were committed.
- The most notable instance was the Nirbhaya Delhi Gang Rape Case of 2012, in which one of the defendants was labelled a child just because he was 6 months away from turning 18.

As a result of all of the instances, the 'Juvenile Justice (Care and Protection) Act, 2000' was replaced by the 'Juvenile Justice Act, 2015'. The main goal was to protect victims' rights against crimes such as rape and murder, as it was difficult to accept that the perpetrator (a juvenile) was unaware of the repercussions.

The following are the key characteristics of the new law:²

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- This new law embraced the *Doli Incapex* concept, which states that a kid must be of legal age to commit a crime.
 - A child under the age of seven is incapable of committing a crime in India, and there is a presumption of innocence between the ages of seven and twelve, but if proof reveals that the crime was done by the child, he can be tried.
 - According to the new bill, juveniles between the ages of 16 and 18 can henceforth be tried as adults for serious offences.
 - The juvenile justice board will undertake a preliminary investigation to determine if the juvenile offender should be sent to rehabilitation or tried as an adult.
 - The child welfare committee will decide on institutional care for children in need of protection and care.

The 'Juvenile Justice (Care and Protection) Act, 2015' aims to ensure that cases involving juveniles are resolved within four months, as required by Article 21 of the Indian Constitution, the establishment of specific juvenile police units that take a humanitarian approach through

² Features of juvenile justice act,2015, https://thefactfactor.com/facts/law/legal_concepts/criminology/the-juvenile-justice-act/12079/

sensitization and training of police employees, as well as the implementation of appropriate provisions and numerous alternatives for juvenile rehabilitation and social reintegration, such as adoption.

LANDMARK CASE – NIRBHAYA DELHI GANG RAPE CASE,2012³

A 23-year-old woman was abused and gang-raped aboard a moving bus in South Delhi on the night of December 16, 2012. The victim and her companion were travelling the bus late at night when the vehicle began to divert from the route. The victim's friend objected, and the males got into an argument. The victim's buddy was beaten with an iron rod, and the victim was brought to the back of the bus and gang-raped by the guys for almost an hour.

One of the attackers shoved an iron rod into the woman's private parts while pulling and ripping her intestines apart while she protested. Following the attack, the woman and her friend were both thrown off the bus. After arriving at the local hospital, doctors determined that only 5% of the victim's intestines were left inside her body.

On December 29, 2012, she died of multiple organ failure, internal hemorrhage, and cardiac arrest. She mentioned six attackers in her statement of her dying declaration, one of whom was a youngster. The young person in question was barely six months away from becoming eighteen. Because of his involvement in such a horrific crime as rape, the Indian legislature amended the 'Juvenile Justice (care and protection) Act, 2000' with the 'Juvenile Justice Act, 2015,' which allows juveniles who run afoul of the law to be tried as adults for crimes such as rape and murder.

The court later found all six males involved in the Nirbhaya case guilty, including the minor. Ram Singh (bus driver), one of the culprits, committed suicide at Tihar jail. The kid was prosecuted separately in a juvenile court and sentenced to three years in a reform centre. Mukesh Singh, Pawan Gupta, and Vinay Sharma, the last three, tried to get out of the case by filing a review petition and a mercy petition, but they were unsuccessful. Another molester, Akshay Thakur, did not utilize any of these methods at first, but the president later denied him

³ Nirbhaya case history and present, <http://www.legalserviceindia.com/legal/article-1788-nirbhaya-case-history-and-present.html>

the ability to do so. The supreme court issued its final decision on March 19, 2019, declaring that the four defendants will be sentenced to death and hanged on March 20 at 6 a.m.

CONCLUSION AND SUGGESTIONS

The proper development of a child is the nation's most valuable human resource. A nation's future successes are determined by its current human resources and their effective utilization. A person under the age of eighteen is referred to as a child. Children who have been neglected by society or by their parents are more likely to use unfair means and engage in illicit activities. When a youngster commits a crime, such as stealing, robbery, or any other horrific act, he is classified as a juvenile delinquent. According to the NCRB's most recent report, 31591 crimes were allegedly perpetrated by minors in 2018, including horrific crimes such as rape and murder, all of which occurred between the ages of 16 and 18. Though each country has its juvenile justice laws, which are updated regularly to reflect current events, the government must also properly implement them. Society should also assist the government in lowering juvenile crime because laws are useless unless and until they are adequately implemented, and their consequences are taken seriously by the public. The government must also investigate and address the reasons that are leading to the surge in juvenile criminality. To prevent criminality among children, good education must be provided. Anti-social behaviour should be addressed properly with school leavers. Defective rehabilitation centers must be established to change delinquents into better human beings. Furthermore, parents must create a welcoming environment at home, pay close attention to their children, and teach them to distinguish between good and evil.