

JUVENILE JUSTICE IN INDIA

Yashasri Tulluru*

INTRODUCTION

The Latin motto that best fits the Indian juvenile justice system is "Nil Novi Spectrum," implying that there is nothing new on earth. Since ancient times, there has been an assumption all over the world that young people should be treated with leniency because there is an ideology that says - young people are often accustomed to reacting with severe and persistent frustration, accompanied by an aggressive approach 15-16 significantly. Common trends or psychological or criminal causes behind the crime are early life experiences, dominant masculinity, upbringing, economic destruction, lack of education, etc. It is a shame to use underage children 6-10 years old these days as a tool for illegal or illegal activities.

JUVENILE JUSTICE

Juvenile justice was the idea that the law should show leniency towards offenders under the age of 18. It introduced reformatory, rehabilitative, and preventive measures to rehabilitate children while they were in prison. Who came up with this idea? This approach is based on the belief that adolescents are less likely than adults to understand right from wrong, and also less likely than adults to control their impulses. The United Nations Convention on the Rights of Child (UNCRC) was passed in 1989 to ensure that children's human rights were protected around the world. It has been ratified by 190 countries including India in 1992. The United Nations Convention on the Rights of the Child (UNCRC) passed in 1989 states that where there is a conflict between the Convention on the Rights of the Child and any other treaty, the Convention on the Rights of the Child shall always prevail. It has 39 articles laid out in three chapters:

- (1) Basic Principles;
- (2) Right to Life, Survival, and Development;
- (3) Prohibition of all forms of Exploitation.

*FIRST YEAR, BBA LLB, NMIMS, HYDERABAD.

It was ratified by India in 1992 and amended in 2004. The new amendment gives full jurisdiction over juvenile cases to Juvenile Justice Boards staffed by experts from children's rights institutions who will decide on charges, punishments, home detention, etc. It also lays down the standards for dealing with children in conflict with the law. Amendments of the Juvenile Justice Act, 2000 have made the burden of proof on juvenile offenders regarding their future actions much lighter.

WHAT IS JUVENILE?

The word "juvenile" or juvenile has a long history and refers to a person who is under the age of majority. "Juvenile" originally was used in the context of legal matters but was broadened over time to include people under 18 years of age who were considered not sound in mind or judgment. The word "juvenile" has been used as an adjective, noun, and even as a verb. In law, the term "juvenile" is sometimes used, because the adult criminal justice system was designed to deal with mature adults. Any person under a certain age cannot be tried as an adult and cannot be considered to have a complete understanding/judgment of what they are doing as compared to an adult who can be tried as an adult in case they commit a crime and they have a complete understanding of what they are doing. A juvenile is not held responsible for his/her acts but is considered to have the capacity. Since the adult criminal justice system was designed to deal with mature adults, any person who is under the age of majority cannot be tried as an adult in case they commit a crime. The child has not come to a complete understanding and can not fully understand what he/she is doing and why they are committing a crime.



JLRJS
Journal of Legal Research and Juridical Sciences

HISTORY OF JUVENILE JUSTICE IN INDIA

The history of juvenile justice in India dates back to the British Raj of 1858 when the rules for small offenses were revised. In 1920, a separate Juvenile Justice Board was established by an order from Viceroy Lord Chelmsford who "saw fit" for all cases involving children up to 15 years of age at that time should be heard before this Board. The Act was originally set to be passed by Lord Chelmsford to "see fit" for such cases. The Juvenile Justice Board, a quasi-judicial body established in 1920, was instrumental in the drafting of the Indian Penal Code (IPC) of 1860 and the Indian Evidence Act of 1872. It also recommended that offenses against children should be tried in public courts and as such received wide publicity which led to a decline in their number. Over time, this board will now deal with all children accused from age 3 to 16 years upon referral from District Magistrate.

In India, Child Labour (Prohibition and Regulation) Act states that it is illegal to employ children below the age of fourteen years in any industry. In India, the Rajya Sabha passed the Juvenile Justice Bill, in 1985 with a majority of 87 votes in favor and 91 against. The Bill was later passed by the Lok Sabha in 1986. However, due to various reasons, like lack of funds, poor implementation, ineffective law, and so on, there has been a huge delay in putting the Act into effect. The age for children to be tried as adults was first established at ten years of age. However, this is not legally set in stone. At present this age varies from state to state from six to eighteen years depending on which state the child is accused of a crime in. In most states, it ranges from ten years to 16 years. The maximum sentences for juvenile offenders as well as the age are different from state to state depending on which state the case is in. In most states, it ranges from 1–2 years to 3 years.

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

The Indian government did not specify what the problem with their juvenile justice system was. There are several reasons why they have not specified this problem. Firstly, they do not want to exacerbate tensions in poor communities who do not understand these changes in the law that have been proposed by the government. They also do not want to undertake radical reform because they know it will involve great costs and effort. This makes it hard for them to enact meaningful changes. For a country that is underdeveloped in the many aspects of development and implementation of the law, the Supreme Court has done an inconceivable job at adapting to this changing landscape. The Supreme Court has shown great leadership by reforming laws and taking into account society's changing needs. The Juvenile Justice Act of 2000 was enacted with a primary purpose "to bring about a change in society's outlook towards delinquents". . .

...With this Act India has acknowledged that children are not mature enough for legal trials and has started serving them as children rather than adults by providing special treatment for minors giving them opportunities to reform themselves. To ensure juvenile justice, all facilities have been made available like special courts, panels, probation services, etc. The Juvenile Justice System of India has been given the responsibility of "providing a framework in which children can be rehabilitated and reintegrated into society quickly and effectively"... Broadly, the main objectives of this Act are to protect children from abuse and exploitation, to provide treatment for children who have committed offenses, and finally to provide provisions for a speedy trial.

Firstly, the goal of protecting children from abuse, exploitation, and negligence is achieved by making all physical forms of punishment including caning/flogging illegal. The act also "recognizes that an understanding of the causes underlying delinquency shall help" ... It also protects India's disadvantaged groups like street children, and tribal populations through special measures designed for their rehabilitation.

As far as the treatment of juveniles is concerned, they have been given the freedom to choose their treatment facilities. For example, a court can order residential centers or special schools for juvenile offenders. There are special institutions like juvenile homes, homes for women and children, training schools, etc., which are specially designed to treat juveniles. Juveniles have also been made free to move between these places depending on the conditions at present. Similarly, they have the freedom of choice when it comes to choosing a place of residence after being released from prison. Juveniles who are given jail sentences will be kept in special institutions till a few months after their release and may be sent back into regular jails as per their behavior and progress towards rehabilitation.

This law is not only a promise but also a recognition of childhood as a stage of life. Section 24 of the Juvenile Justice Act, 2000 outlines the nature and procedures of hearing juvenile cases at a Magistrate's Court. Mankind has always been prejudiced about the fact that many people need to be punished for their acts. Although all of these people do commit a crime, due to their age, they should be taken care of rather than being sent to jail. This is where Juvenile justice comes in. Children and Adolescents have certain characteristics like they are less mature, and they cannot make rational decisions. To avoid punishment, many children and adolescents try not to take responsibility for their actions or even act guilty themselves because they are little sure about what the consequences will be.

The areas of focus for Juvenile Justice are:

Mental health – Getting children to help for mental health issues before it gets out of hand and turns into an actual problem.

Training – Providing the necessary skills and experience needed for the children to make productive members of society

Transition – Helping the juveniles make a transition into a proper life.

Training, Mentoring, and socialization are all aspects of Juvenile Justice. The system is working so that they can have a better future rather than going on to commit more crimes after they have finished their time in the juvenile justice system.

CASES RELATED TO JUVENILE JUSTICE

There have been Indian cases that have caught the public eye recently. These cases have raised public awareness of the local juvenile justice system and its failures. The Indian government has announced plans to review the country's juvenile justice system after multiple mass rapes by minors in December 2012. This story will provide an overview of how the Indian juvenile justice system operates, what is known about these recent cases, and whether America could learn from them as well. The Juvenile Justice Act of 2000, designed to reform and restructure the juvenile justice system in India, was passed on August 27, 2000. It was implemented in January 2002. This act deals with all children under 18 who have committed any offense, save for child trafficking or child pornography. The purpose of the act is to rehabilitate youth offenders and provide a more humane treatment than adult offenders receive.

In recent news there have been multiple cases regarding juvenile offenders that have shocked the people and they have asked for change in their law. The cases have been in the media for a very long time and the public is asking for these cases to be handled by legislation. The first case that raised public attention was a December 2012 gang rape of a 23-year-old student on a moving bus in New Delhi. This caused outrage among thousands of people, especially women, which led to protests across India and demands that something be done about the increase in crimes against women. This particular case received international attention from many countries, including China and the United States. The protests were met with police brutality because they shot rubber bullets at protestors, beat them with wooden canes, dragged them by their hair (Benner), and used tear gas against them. The people were outraged because the government was not doing what it promised to do after so many rapes had been reported. The government promised to take rape seriously and treated these women like they did not have any right to protest.

On December 16, 2012, a 5-year-old girl was kidnapped, raped by more than one person, and then dumped near her home on the outskirts of the city (The Guardian). Her parents found her unconscious lying in a pool of blood. The police response was not prompt and when they arrived at the scene she had been moved to the hospital by her parents. The police put out an

alert but there have been no updates as of yet (The Guardian). Sudhir Gupta, the head of India's National Commission for Protection of Child Rights, states that "the lack of awareness in the present judicial process has led to a public perception that offenders are dealt with callously and leniently by the judiciary at all levels...The child who commits an offense is not necessarily a monster or demon but may have some emotional and mental problems..." (Gupta). This statement shows a lack of understanding of "juvenile offenders" in the Indian justice system. The new juvenile justice act does not take into consideration the needs of children and adults in the system. Gupta also states that "the juvenile justice system in India is currently weak, backward and ill-equipped to deal with children and young persons who have committed crimes" (Gupta). This is because India has only 34,000 judges for its 3.2 billion population. Also, 70% of judges are retired members which has caused a burden on judges' time. There is also a lack of adequate facilities for children in the system. This is what has created a backlog of cases that are sentenced to juvenile hall.

JUVENILE JUSTICE ACT 2015

The Juvenile Justice Act, of 2015 is an important piece of legislation that has been introduced by the Union Government of India. The act has been amended to create a more child-friendly approach to dealing with juvenile crime. The act is intended to reduce the time spent in remand homes and help protect children from being treated as adults for smaller crimes.



WHAT IS THE SIGNIFICANCE OF THE JUVENILE JUSTICE ACT 2015?

The Juvenile Justice (Care and Protection of Children) Act, 2000 [JJ (CPC)] has been amended by the Government of India to provide better protection and care environment for children. The act ensures that juvenile offenders are not treated as adults for crimes that they commit. The amendments were made on 28th December 2015 by the legislative department of the Ministry of Women & Child Development. The amendment of the Juvenile Justice (Care and Protection of Children) Act, 2000 has been made to protect children from being treated as adults for lesser crimes and make it easier for them to work towards rehabilitation.

HOW IS JUVENILE JUSTICE ACT 2015 DIFFERENT FROM JUVENILE JUSTICE ACT 2000?

The main changes with this act include:

1. The reduction of the age of a juvenile to be tried under the act from 18 years that was in place previously to 16 years. This amendment is expected to come into effect on 15th May 2016.
2. The Juvenile Justice Board can allow children between the ages of 16 and 18 years who have committed heinous crimes or are repeat offenders, to be tried as adults for minor crimes for which they would not have been charged previously. The board has to arrive at this decision based on recommendations from a committee that includes members of the administration, judiciary, and medical professionals.
3. A child between the ages of 16 and 18 years who is accused of a major crime such as rape or murder will be tried by a regular court and will face the same penalties that adults would unless he can prove that he should not be treated as an adult. The onus is on him to prove his maturity.
4. The proposed changes to the law also include provisions for children between 16 and 18 years who are found guilty. They may be sent to an open facility instead of a correctional home if they have committed any non-violent offense, have shown a conscience, and accepted responsibility for their actions.
5. A committee has been set up to monitor the implementation of the Act and suggest any amendments to make it more effective.

Other important provisions of this act are not just limited to what is stated above but many other additions have made it easier for children to be charged, tried, and punished for their crimes. The composition of the law is based on recommendations from a Parliamentary Committee that included members from various fields such as law, child rights activism, and mental health professionals. It has extensive powers to overrule proceedings in juvenile courts if it deems fit by setting down new guidelines.

JUVENILE JUSTICE IN INDIA

Juvenile justice in India is a system that deals with young offenders aged less than 18 years. The juvenile justice system operates following the Juvenile Justice Act, 2000, which is enacted by the Parliament of India. The law defines a child as any person below 18 years of age and includes both boys and girls. The Indian juvenile justice system is headed by the National Council for Children (NCC). This council reviews who should be dealt with through the legal processes and identifies areas for improvement. It also monitors how well local state

governments are carrying out their duties under NCC's direction. The Juvenile Justice Board (JJB) is an independent body that has all the power and authority to set, amend and enforce the rules of juvenile justice.

There are two types of juvenile courts – the Special Juvenile Courts and the Primary Juvenile Courts.

Special Juvenile Courts are different from the primary courts in that they deal with children who are accused of serious crimes like murder, rape, kidnapping, sexual exploitation, etc. Usually, children as young as 10 years who find themselves involved in such crimes will be tried in these courts. Situations, where the juvenile justice system comes into action, are:

Situation Type of Juvenile Court Offences Young Offenders and Others are Often referred to as "youth courts" by the press. These courts hear criminal crimes committed by children and young people and deal with juveniles who are accused of serious crimes like murder, rape, kidnapping, sexual exploitation, etc. The provisions of the Juvenile Justice Act are not applicable in these courts. Criminal Laws of the Juveniles

Juveniles are also considered citizens of India and must not be treated as the least developed in terms of their rights and constitutional protections. The stand taken by India regarding child rights is that children's rights are not confined to the age of the majority but extend to include their right to access basic services, education, and health care. Children also have rights both at the international as well as national levels. Article 44(2) of the Constitution describes children to welfare, prevention, and protection of their rights in general; protection from exploitation; custody, care, and maintenance; provision for education and treatment for those who require it; care, guidance, and control of those who are or may become responsible for them (i.e. parents or guardians, etc.) in other words, children have the right to live with dignity, to be maintained and provided for by the State; they are permitted to acquire their livelihood and are entitled to be educated.

CONCLUSION

First of all, Indian juveniles are usually considered by law to be those under 18 years of age but this definition varies from state to state depending on their age of majority; they are mostly not criminally liable for acts committed while they were under 18 or at least have a lighter

sentence. While the age of majority is 18 in most states, in some states it is 21. The Indian Parliament has enacted the Juvenile Justice (Care and Protection) of Children Act in 2000 which had limited jurisdiction until it was amended by the Central Government on 31 March 2015 by replacing the original text with a new one called "The Juvenile Justice (Care and Protection of Children) Amendment Act, 2015". This law provides for children's rights, their care, and safeguards, the juvenile justice system – juvenile homes, special homes, observation homes, etc. It also provides for running short-stay homes for juveniles in certain cases. It also makes provisions for appointing guardians ad litem to protect the children's rights and interests. Children between 16 and 18 years who commit a non-bailable offense or an offense of a heinous nature shall be tried as adults in the ordinary criminal courts. The Act also clearly lays down that children cannot be isolated when kept in any type of home or shelter. They should be kept along with their age mates and if they have committed any offense they should be kept in an observation home along with the other offenders. No child shall be detained in any prison or detention barrack and shall not be handcuffed, chained, or fettered while being taken to Court or from one place to another for an appearance before a court unless it is so directed by the Juvenile Justice Board for special reasons to do so in the public interest.



JLRJS

Journal of Legal Research and Juridical Sciences

REFERENCES

- <https://blog.iplayers.in/juvenile-justice-system-india/>
- <https://www.legalserviceindia.com/legal/article-6794-juvenile-justice-system-in-india.html>
- <https://www.lawyered.in/legal-disrupt/articles/history-juvenile-justice-system-india/>
- <http://cara.nic.in/PDF/JJ%20act%202015.pdf>