

## ANALYZING THE LEGAL FRAMEWORK AND THE IMPACT OF “THE JUVENILE JUSTICE SYSTEM” IN INDIA

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### ABSTRACT

*The following brief essay examines the complexities of India's Juvenile Justice system. The article begins with a brief introduction that defines and highlights the relevance of India's juvenile justice system. The article discusses the history and evolution of India's juvenile justice system. It examines the numerous legislative provisions and the present state of 'The Juvenile Justice System' in India. The report finishes by examining the impact, critiques, and recommendations for 'The Juvenile Justice System' on Indian society and the economy.*

**Keywords:** Juvenile Justice System, Juvenile Act, Juvenile, Child, Redemption.

### INTRODUCTION

#### Definition & Meaning of 'Juvenile Justice System' in India

The Juvenile Justice system is a branch of system law that was initiated to protect, regulate and promote the human rights of minors or under-aged people who have been accused of certain offences. Juveniles<sup>1</sup> accused of offences are sometimes known as those in dispute with the law. International standards stress both prevention and rehabilitation.

International laws and regulations acknowledge *"the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's feeling of dignity and value."*<sup>2</sup>

*The Juvenile Justice System*<sup>3</sup> in India is a legislative system aiming to protect children's 'well-being and rights' while providing appropriate care and safety. It is based on regeneration and change rather than punishing actions. This system is regulated and systemized by various rules

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<sup>1</sup> Van Bueren, Geraldine (2006), „Article 40: Child Criminal Justice“, in A.Alen, J. Vande Lanotte, E.Verhellen, F.Ang , E.Berghmans and M.Verheyde (eds.), A Commentary on the United Nations Convention on the Rights of the Child, Leiden: Martinus Nijhoff Publishers, p. 170

<sup>2</sup> Ms. SAUMYA UMA, Asst. Professor- Law, MODUL 1: EVOLUTION OF JUVENILE JUSTICE SYSTEM IN INDIA – PART 1,

[https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp\\_content/S001608/P001809/M027674/ET/1520851568JJMO DULE1CONTENTS.pdf](https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/S001608/P001809/M027674/ET/1520851568JJMO DULE1CONTENTS.pdf), (last visited, 6<sup>TH</sup> June, 2024).

<sup>3</sup> Convention on the Rights of the Child, Art. 40

and directives to ensure the welfare & progress of juvenile offenders<sup>4</sup>.

### **Importance of 'Juvenile Justice System' in India**

The Juvenile Justice System in India can be aptly described by the *Latin phrase "Nil Novi Spectrum,"* meaning "*nothing new on this planet.*" Historically, there has been a belief that juveniles should be treated with compassion, as one school of thought suggests they are more likely to respond with violence when subjected to prolonged and intense dissatisfaction. Children are considered the cornerstone of any progressive society and the architects of a future civilized era.

Mistreatment and neglect of children lead to societal decline. International law recognizes anyone under 18 as a minor, emphasizing safeguarding '*children's rights*' since they represent the nation's future. Given the surge in youth delinquency and high-profile incidents globally, Indian lawmakers face mounting pressure to introduce *new, progressive, and stringent laws for The Juvenile Justice System*<sup>5</sup>.

The Juvenile Justice System in India plays an instrumental role in guaranteeing the protection, rehabilitation and care of children who have broken the law as well as children or under-age minors who require special protection & care. It attempts to provide a '*child-centric and child-friendly*' approach, putting the child's best interests first in all procedures and judgments. The Juvenile Justice System also emphasizes boosting skill development, counselling, support services & education to allow holistic development. Finally, the system's goals are to protect children's well-being and rights conferred to them, to support their '*rehabilitation and reintegration into society*', and to prepare them for a successful transition into responsible adulthood<sup>6</sup>.

### **HISTORICAL BACKGROUND AND EVOLUTION OF 'JUVENILE JUSTICE SYSTEM' IN INDIA**

In modern times, a global movement advocating for the special treatment of juvenile offenders has gained momentum, particularly in industrialized nations like the *United Kingdom* and the

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<sup>4</sup> Juvenile Justice System in India: Evolution and Defects, <https://lawctopus.com/clatalogue/clat-pg/juvenile-justice-system-in-india-evolution-and-defects/>, (last visited, 6<sup>th</sup> June, 2024).

<sup>5</sup> Role of Juvenile Justice System in India, <https://ialm.academy/blog/role-of-juvenile-justice-system-in-india>, (last visited, 6<sup>th</sup> June, 2024).

<sup>6</sup> The Role of 'The Juvenile Justice System' in India, Published on June 7 2023, <https://legalvidhiya.com/role-of-the-juvenile-justice-system-in-india/>, (last visited, 6<sup>th</sup> June, 2024).

In the *United States*, the approach to juvenile offenders saw a significant shift starting in the mid-eighteenth century, transitioning away from treating young offenders as harshly as adult criminals. A landmark moment occurred on November 20, 1989, when the United Nations General Assembly adopted The Declaration on the Rights of the Child, emphasizing the need to prioritize the welfare of young offenders.

The treaty outlined that judicial proceedings for juveniles should be minimized to support and enhance their '*social reintegration*'. It prompted the Indian government to repeal the Juvenile Justice Act of 1986 and create new legislation. As a result, the Indian legislature introduced the Juvenile Justice (Care and Protection of Children) Act 2000.

The Juvenile Justice Act of 1986, which updated the Children's Act of 1960, was established in response to the UN's Basic Executive Regulations for Young Offenders, approved in November 1985. This comprehensive Act, consisting of 63 sections divided into seven chapters, was implemented nationwide in India. Its primary objective was to provide protection, support, rehabilitation, training, and treatment for juvenile delinquents who had been mistreated<sup>7</sup>.

The Juvenile Justice System in India has undergone significant changes over time, reflecting an increasing awareness of the unique needs of young offenders. In 1920, a crucial development occurred with the establishment of the first juvenile court in Bombay (now Mumbai) under the Children Act of 1920<sup>8</sup>. This recognized that individuals under 16 needed special protection and care, creating a separate judicial framework for juvenile offences.

A significant milestone was reached in 1986 when the Juvenile Justice Act<sup>9</sup> replaced the Children Act of 1920. This landmark legislation acknowledged that juveniles who conflicted with the law were not typical criminals but required care and protection. It introduced the concept of a Juvenile Welfare Board to oversee the Act's implementation and established observation homes to provide temporary shelter for juveniles awaiting legal proceedings.

In 2000, the Juvenile Justice Act was amended to align with the principles of the United Nations

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<sup>7</sup> *Role of Juvenile Justice System in India*, <https://www.legalserviceindia.com/legal/article-9309-role-of-juvenile-justice-system-in-india.html>, (last visited, 6<sup>th</sup> June, 2024)

<sup>8</sup> *THE MADRAS, BENGAL AND BOMBAY CHILDREN (SUPPLEMENTARY) ACT, 1925*, <https://www.indiacode.nic.in/bitstream/123456789/19233/1/a1925-35.pdf>, (last visited, 6<sup>th</sup> June, 2024).

<sup>9</sup> *THE JUVENILE JUSTICE ACT, 1986*, <https://indianrailways.gov.in/railwayboard/uploads/directorate/security/rpf/Files/law/BareActs/juvenile1986act.html>, (last visited, 6<sup>th</sup> June, 2024).

Convention on the Rights of the Child<sup>10</sup>. This amendment raised the age of juvenile delinquency from 16 to 18 years, focusing on reintegration and the rehabilitation of juvenile offenders into society.

Another significant amendment came in 2015, following a high-profile case involving a juvenile in the 2012 Delhi gang rape and murder, known as the Nirbhaya case<sup>11</sup>. This amendment allowed juveniles who were aged between 16 to 18 to be tried as '*adults*' for '*heinous crimes like rape and murder*' while still emphasizing rehabilitation and reintegration for other offences.

The 2021 amendment<sup>12</sup> further strengthened India's juvenile justice system by introducing provisions for foster care and adoption for '*children in need of care and protection*'. It also enhanced measures for the comprehensive rehabilitation and social reintegration of juvenile offenders. It elevated the roles of both Juvenile Justice Boards and Child Welfare Committees in the decision-making process<sup>13</sup>.

## LEGAL FRAMEWORK GOVERNING 'JUVENILE JUSTICE SYSTEM' IN INDIA

### Definition of 'Child' and 'Juvenile' under the 'Juvenile Justice Act, 2015 and other various laws

A child is generally defined as someone who is under the age of 18 years and who might possibly lack the maturity to recognize and differentiate between what is '*right*' and '*wrong*'. In the contemporary period, most countries' penal laws have embraced the notion of '*doli incapex*', which states that the Act being committed is a '*crime*'<sup>14</sup>. The criminal rules also indicate that only children aged seven to twelve can be convicted, provided that their conduct was terrible and they had adequate understanding to realize the implications of their actions.

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<sup>10</sup> Convention on the Rights of the Child, <https://www.unicef.org/child-rights-convention>, (last visited, 6<sup>th</sup> June, 2024).

<sup>11</sup> THE TIMES OF INDIA, *What is Nirbhaya case*, Published on TOI-Online, Dec 18, 2019, <https://timesofindia.indiatimes.com/india/what-is-nirbhaya-case/articleshow/72868430.cms>, (last visited, 6<sup>th</sup> June, 2024).

<sup>12</sup> MINISTRY OF LAW AND JUSTICE, THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT ACT, 2021, NO. 23 OF 2021 [7th August, 2021.], [https://cara.wcd.gov.in/PDF/JJ%20Amendment%20Act%20-2021\\_.PDF](https://cara.wcd.gov.in/PDF/JJ%20Amendment%20Act%20-2021_.PDF), (last visited, 6<sup>th</sup> June, 2024).

<sup>13</sup> *Juvenile Justice System in India: Evolution and Defects; Evolution of 'The Juvenile Justice System' in India*, Published by Samridhi M, dated Aug 26, 2023, <https://lawctopus.com/clatalogue/clat-pg/juvenile-justice-system-in-india-evolution-and-defects/>, (last visited, 6<sup>th</sup> June, 2024).

<sup>14</sup> Section 82 of IPC states that a child below the age of seven years is *doli incapex*

**Section 2(e)** of *The Children Act of 1960* defines a child as a male under the age of 16 and a girl under the age of 18 years<sup>15</sup>.

**United Nations Convention:** According to the 1989 *United Nations Convention on the Rights of the Child*, a child is defined as a human being under eighteen years unless the majority age is reached earlier under the relevant legislation<sup>16</sup>.

### **Difference Between Juvenile and Child**

A child accused of a crime is not prosecuted as an '*adult*' and is transferred to the Child Care Centre, whereas a Juvenile is defined as someone aged between 16 and 18. A Juvenile accused of a crime is considered a Juvenile offender and is prosecuted as an *adult* in court.

In general, both the terms have a similar meaning; nonetheless, the difference rests in the context of legal codifications<sup>17</sup>.

### **Juvenile Justice Act of 2000**

The Act was enacted in 2000 to protect children. The mentioned was amended twice, once in 2006 and again in 2011. The change was developed to remedy the loopholes & gaps in implementation. Furthermore, the increasing number of juvenile criminal cases in recent years, as well as the heinous '*Delhi Gang Rape Case*', have compelled the current position holders & politicians to pass the above legislation as it deemed fit. The main disadvantage of the Act was that it included inadequate legal provisions. The statute was shortly superseded by The Juvenile Justice (Care and Protection) Statute of 2015<sup>18</sup>.

### **Juvenile Justice Act of 2015**

*The Juvenile Juvenile Act of 2015* updated the *Juvenile Justice Act of 2000*, recognizing the need for a stronger and more effective judicial system that emphasized both reformative techniques. The attitude toward juveniles should differ from that of '*adults*'; there have been arguments in Parliament that '*Juveniles*' should be allowed greater space for transformation,

<sup>15</sup> Bare Act, *The Children Act*, 1960, Universal Publication, 12<sup>th</sup> Edition.

<sup>16</sup> Article 1 of the UN Convention on the Rights of Child, 1989.

<sup>17</sup> *An Analytical Study of Juvenile Justice System in India*, published on April 24, 2018, <https://blog.ipleaders.in/juvenile-justice-system-india/>, (last visited, 6<sup>th</sup> June, 2024).

<sup>18</sup> *Introduction to Juvenile Justice, Juvenile Justice Act of 2000*, Published by Tanya Khan, <https://www.legalserviceindia.com/legal/article-7395-introduction-to-juvenile-justice.html#:~:text=Juvenile%20Justice%20Act%2C%202000,and%20loopholes%20in%20the%20implementa%20tion.>, (last visited, 6<sup>th</sup> June, 2024).

betterment & reintegration, which can only be accomplished with standard judicial systems. Thus, the new laws, the Juvenile Justice (Care and Protection of Children) laws of 2015, emphasized a juvenile-friendly approach to adjudication and resolution of problems.

**Section 2(12)** defines a '*child*' as anyone who has not completed the age of eighteen. The Act classifies children into two categories: "*Child in need of care and protection*" and "*Child in conflict with law*", as outlined in **Section 2(13)**.

The Act makes adequate and proper distinctions about the nature of the offences, hence categorizing them as heinous, serious, and petty. If juveniles aged 16-18 commit a crime, their mental capacity is assessed, and they may be tried as '*Adults*' based on the findings. Introducing *juvenile courts* is another notable feature, establishing special courts to handle juvenile offences exclusively, similar to NDPS courts and those dealing with POCSO cases. Additionally, the Act specifies the Meaning of *adoption*, ensuring the rights of an '*Adopted child*' are recognized<sup>19</sup>.

### Juvenile Courts

*Juvenile courts*, also known as children's courts, address issues involving delinquent, neglected, or abused children. These courts operate informally and with a child-friendly approach to ensure proper treatment and rehabilitation.

Under the *Juvenile Justice Law and Criminal Procedure Code*, children are not to be tried in regular criminal courts. The aim is social rehabilitation, reformation and reintegration rather than punishment for the crime committed.

Juvenile cases are managed as follows:

- For juveniles under 16, cases are handled by the '*Juvenile Justice Board (JJB)*', which includes a '*Metropolitan Magistrate or Judicial Magistrate First Class (not a Chief Magistrate)*' and two experienced '*social workers*', one of whom must be a '*Woman*'. The maximum sentence is three years.
- For juveniles aged between 16 and 18 who commit heinous crimes, cases are tried in

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<sup>19</sup> *Introduction to Juvenile Justice, Juvenile Justice Act of 2015*, Published by Tanya Khan, <https://www.legalserviceindia.com/legal/article-7395-introduction-to-juvenile-justice.html#:~:text=Juvenile%20Justice%20Act%2C%202000,and%20loopholes%20in%20the%20implementation.,> (last visited, 6<sup>th</sup> June, 2024).

Children's Court as adults. These courts, which can be existing session courts or special courts under the JJ Act, can impose sentences longer than three years but not the death penalty or life imprisonment. Offenders are sent to an observatory home until age 21 before being transferred to jail if found guilty.

The Juvenile Justice Act of 2015 also mandates the establishment of '*Juvenile Justice Boards*' and '*Child Welfare Committees*' in every district<sup>20</sup>.

## JUVENILE JUSTICE AND THE CONSTITUTION OF INDIA

The Indian Constitution, the nation's fundamental law, provides rights and duties for citizens and outlines government operations. Part III details Fundamental Rights, while '*Part IV includes Directive Principles of State Policy (DPSP)*', guiding government policy-making.

### Key constitutional provisions for children's welfare include

- Right to free and compulsory education for children aged 6 to 14 (Article 21A).
- Protection from hazardous employment for children under 14 (Article 24).
- Protection from abuse by adults (Article 39(e)).
- Protection from human trafficking and forced labour (Article 39).
- Right to good nutrition and a proper standard of living (Article 47).
- Article 15(3) grants the State special powers to enact laws to uplift children and women<sup>21</sup>.

### Current Juvenile Justice System in India

Like other countries, India has developed a few legislative reforms & measures that explicitly address the rights and protection of juvenile offenders to combat the problem of juvenile delinquency.

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<sup>20</sup> *Introduction to Juvenile Justice, Juvenile Courts*, Published by Tanya Khan, <https://www.legalserviceindia.com/legal/article-7395-introduction-to-juvenile-justice.html#:~:text=Juvenile%20Justice%20Act%2C%202000,and%20loopholes%20in%20the%20implementation.,> (last visited, 6<sup>th</sup> June, 2024).

<sup>21</sup> *Introduction to Juvenile Justice, Juvenile Justice And the Constitution*, Published by Tanya Khan, <https://www.legalserviceindia.com/legal/article-7395-introduction-to-juvenile-justice.html#:~:text=Juvenile%20Justice%20Act%2C%202000,and%20loopholes%20in%20the%20implementation.,> (last visited, 6<sup>th</sup> June, 2024).

The Juvenile Justice System in India is based on three major assumptions:

- Young criminals should be corrected rather than convicted in court.
- Instead of punishment, they should be allowed to rehabilitate.
- Trials for children confronting the law should be centred on non-penal treatment through community-based social control organizations, such as Observation and Special Homes.<sup>22</sup>

## RELEVANT LANDMARK CASES CONCERNING THE JUVENILE JUSTICE SYSTEM IN INDIA

The court addressed **Sections 83<sup>23</sup> and 84<sup>24</sup> of the IPC**, which states that adolescents cannot be treated as adults. It is widely established in law that when dealing with 'minors', the court must consider both 'reformatory and humanitarian concerns.'

However, in the instance of **Heeralal v. Union of India**, a kid threatened an adult by slicing him up and stabbing another person to death. The court convicted him, citing the boy's legal age. The Supreme Court likewise dismissed the plea<sup>25</sup>.

**In Satya Deo v. State of Uttar Pradesh<sup>26</sup>**, it was determined that a child should not be denied the right to be treated as a juvenile at the time of committing an offence if they were under the age of 18, even if the offence occurred before the implementation of the Juvenile Justice Act of 2000. Section 25 of the Juvenile Justice Act of 2015 stipulates that the 2000 Act would continue to apply to ongoing cases before its adoption<sup>27</sup>.

## CRITICISMS & CHALLENGES FACED BY "THE JUVENILE JUSTICE SYSTEM" OF INDIA

During the Lok Sabha discussion in *May 2015*, *Shashi Tharoor, an INC Member of Parliament (MP)*, stated that the legislation was incompatible with international norms and that most

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<sup>22</sup> *Introduction to Juvenile Justice, Present Juvenile system in India*, Published by Tanya Khan, <https://www.legalserviceindia.com/legal/article-7395-introduction-to-juvenile-justice.html#:~:text=Juvenile%20Justice%20Act%2C%202000,and%20loopholes%20in%20the%20implementation.,> (last visited, 6<sup>th</sup> June, 2024).

<sup>23</sup> Section 83 in The Indian Penal Code, 1860

<sup>24</sup> Section 84 in The Indian Penal Code, 1860

<sup>25</sup> AIR 1978 MP 209.

<sup>26</sup> AIR 2020 SC 4826.

<sup>27</sup> *Juvenile Justice System in India, Specific Provisions of the Legal Code and Relevant Case Laws*, Published on June 28, 2023, <https://blog.iplayers.in/juvenile-justice-system-india/>, (last visited, 6<sup>th</sup> June, 2024).



youngsters who disobeyed the law came from impoverished and uneducated homes. He stated that they should be educated rather than punished<sup>28</sup>.

Child and women's rights activists have denounced the law as a backward step. Many academics and activists saw the post-December 2012 *Delhi Gang Rape* responses as the result of media sensationalization of the problem, and they warned against any regressive moves that would disrupt the momentum of Juvenile Justice Legislation in the country.

However, some aspects of society believed that, in light of terrorism and other major offences, the Juvenile Justice Act of 2000 ought to be revised to incorporate punitive techniques in the present Juvenile Justice Law, which is now entirely reformatory & rehabilitative. Some say that interfering with the Juvenile Justice Act is unnecessary for establishing an effective deterrence to terrorism. Justice RS Sodhi, a retired judge from the Delhi High Court, told the "*Hindustan Times on August 8, 2015*, "We are a civilized nation, and if we turn savage by distorting our own rules, the adversary will succeed in destroying our social fabric. We should not accept it and must denounce the decision to send youngsters to fight in their war"<sup>29</sup>.

## IMPACT OF "THE JUVENILE JUSTICE SYSTEM" ON THE INDIAN SOCIETY & ECONOMY

The Juvenile Justice System in India was designed to uphold, protect and promote the 'rights of minors accused of offences, playing a crucial role in shaping society and impacting the economy. This system focuses on rehabilitation rather than punishment, aligning with international standards that emphasize the dignity and value of every child. By treating young offenders with compassion and providing them with opportunities for reform, the system helps reduce recidivism rates and enables juveniles to become productive members of society. This approach also reduces the burden on the criminal justice system, freeing up resources to address more severe crimes.

Economically, a rehabilitative juvenile justice system can lead to significant long-term savings. By investing in young offenders' education, skill development, and mental health, the state reduces future costs associated with crime, incarceration, and social services. Successful reintegration of juveniles into society means they can contribute to the economy as skilled and

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<sup>28</sup> *16-Year-Olds to be Tried as Adults in Extreme Crimes, Says Lok Sabha*". *NDTV*. 7 May 2015.

<sup>29</sup> *Juvenile Justice (Care and Protection of Children) Act, 2015, Criticism*, [https://en.wikipedia.org/wiki/Juvenile\\_Justice\\_\(Care\\_and\\_Protection\\_of\\_Children\)\\_Act,\\_2015#](https://en.wikipedia.org/wiki/Juvenile_Justice_(Care_and_Protection_of_Children)_Act,_2015#), (last visited, 6<sup>th</sup> June, 2024).

educated individuals rather than being a continual financial burden due to repeated offences or long-term incarceration.

Moreover, the system's focus on protecting 'children in need of care and protection' helps create a safer and more stable social environment. This stability is crucial for economic growth, as it attracts investments and fosters a healthy, educated workforce.

The implementation of The Juvenile Justice (Care and Protection of Children) Act, 2015, and its subsequent amendments, including the establishment of Juvenile Justice Boards and Child Welfare Committees, underscores India's commitment to safeguarding 'children's rights'. These measures ensure a child-centric approach in judicial proceedings, emphasizing the best interests of the child.

## CONCLUSION

The Juvenile Justice System in India is built on the premise that children, even those who commit offences, deserve opportunities for rehabilitation and reintegration into society.

Given that children are generally more amenable to reform than adults, it is crucial to offer them a chance to resurrect their lives with a cleaner slate instead of pushing them into a vicious cycle of crime and incarceration. The juvenile justice framework in India must strike a careful balance between punishment, deterrence, and rehabilitation.

Ultimately, the state's primary duty is to foster an environment that supports the holistic development and rehabilitation of juveniles, ensuring they can contribute positively to society. This comprehensive approach aligns with the principles of justice and human rights and promotes a more just and empathetic society<sup>30</sup>.

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<sup>30</sup> *THE JUVENILE JUSTICE SYSTEM'' IN INDIA:A BRIEF OVERVIEW*, Published by: TEENA THOMAS, *ISSUE BRIEF*, [https://sprf.in/wp-content/uploads/2021/02/22.5.2020\\_The-Juvenile-Justice-System-in-India\\_A-Brief-Overview.pdf](https://sprf.in/wp-content/uploads/2021/02/22.5.2020_The-Juvenile-Justice-System-in-India_A-Brief-Overview.pdf), (last visited, 6<sup>th</sup> June, 2024).

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