

THE JUVENILE JUSTICE DILEMMA: ACCOUNTABILITY VS. REHABILITATION

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ABSTRACT

Juvenile delinquency has become a pressing concern in India. Children are the Backbone of a nation. However, the mere fact cannot be overlooked that over the past few decades, there has been a significant increase in the number of crimes committed by juveniles. The Juvenile Justice (Care and Protection of Children) Act, 2015 was introduced to promote accountability for the heinous crimes committed by juveniles between 16 to 18 years. Nevertheless, this amendment maintained a permissive posture that may not have sufficiently addressed the intricacies of juvenile delinquency by ignoring both significant and minor offences. The number of delinquent cases is rising, and this has long-term effects on society. Therefore, the court system must reconsider how it handles this population. This article aims to balance accountability and rehabilitation within the juvenile justice system to ensure that the Victim's rights are not compromised. The mere fact is that the Conventional punitive approach might not be effective every time and might be inadequate, perpetuating cycles of reoffending. Therefore, creating a sense of deterrence becomes pivotal to putting a stoppage on juvenile delinquency. Simultaneously, acknowledges systematic factors that consist of poverty, educational disparity and any sort of trauma leading to such delinquencies. The objective of the paper is to empower young offenders to know their responsibility toward other individuals and foster responsibility while providing pathways toward growth. Active interference by inculcating and addressing the need for holding juveniles accountable for their wrongful act will be a significant step towards eradicating the rising numbers of juvenile delinquents.

Keywords: Juvenile Delinquency, Justice Dilemma, Adolescence, Rehabilitation, Accountability, The Juvenile Justice (Care and Protection of Children) Act, 2015.

“Humanity has the stars in its future, and the future is too important to be lost under the burden of juvenile folly and ignorant superstition” - Issac Asimov

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INTRODUCTION

The mere fact that Children play a pivotal role in shaping the future as they also make up a substantial portion of a nation. They are the leaders of the upcoming Generation. Hence, are considered as the backbone of a nation and are highly valued in nearly all contemporary societies. Acknowledging the importance of addressing juvenile delinquency, contemporary perspectives emphasize the need to protect, nurture, and educate children, ensuring they are exposed to appropriate values and behaviours. where there are evidences that showcases children as victims but there are also certain evidences that points out the crime committed by children which cannot be neglected.

Juvenile delinquency presents a significant challenge not only to nations but also to entire societies.¹ Juvenile delinquency does not only pose a challenge to a Country it also deteriorates an individual's well-being. Crimes committed by juveniles constitute a major portion. In India maintaining a delicate balance between accountability and rehabilitation has become a major challenge of the Juvenile Justice System. Juveniles who have committed the most heinous crime which include horrendous offences like Rape and Murder which is just not an offence committed against an individual but against the entire society. Therefore, there is a need to handle such cases with care and sensitivity.

Who Is A Juvenile?

The word "Juvenile" is taken from the Latin word *Juvenis* meaning young² or a person who is physiologically immature or underdeveloped, and per Section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015 which stipulates that a person who has not attained the age of 18 year is a juvenile and will be tried as a juvenile under the following act.

BRIEF OF THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

The previous act of 2000³ was amended as a need was felt to revitalize the implementation issues and procedural issues related to adoption it was also cited by the government from the National Crime Record Bureau which showcased that there had been a hike in the number of

¹ Deepshikha Agarwal, *Juvenile Delinquency in India-Latest Trends and Entailing Amendments in Juvenile Justice Act*. (PEOPLE; International Journal of Journal Social Sciences, 3(3), 1365-1383), (3rd February,2018)

² Mamta Rao, *Law related to Women and Children*, (EBC publishing (P) Ltd., Lucknow)

³ The Juvenile Justice (Care and Protection of Children) Act,2000.

juveniles committing crimes particularly children falling under the age group of 16 to 18. The Juvenile Justice (Care and Protection of Children) Act, 2015 has been subjected to various changes that the previous legislations had not addressed and one of the most crucial steps taken by the present legislation was dealing with the children who are either in need of care and protection of law and child who are in conflict with the law the following act seeks to hold accountable the juveniles who are between the age bracket of 16 to 18 years and have committed 'heinous offences' as stipulated under section 15⁴. However, there are certain loopholes in the current act that remain a question of debate. Where the act seeks to reduce crimes committed by children between 16 to 18 years of age there are still cases that show a different story altogether. In India, the biggest challenges faced by the current act are insufficient rehabilitation programs, inadequate facilities and delays in case disposition which tend to disturb the balance between accountability and rehabilitation.⁵ There are certain shortcomings which are yet to be addressed which includes a system focusing on victim orientation in serious cases and not just following a path of rehabilitation to create a sense of deterrence among the juveniles.

UNDERSTANDING JUVENILE DELINQUENCY: INSIGHTS FROM NCRB DATA

The juvenile crime statistics in India show that the innocence of juveniles has been lost. The figures from the National Crime Record Bureau (NCRB) suggested that a total number of 31,170 cases were registered against juveniles across India in the year 2021, which showcases a subsequent hike of 4.7% over 2020 when a number of cases registered were about 29,768 and the biggest matter of concern is that these crimes were committed by the juveniles between 16 to 18 years also according to the NCRB the crime rate has hiked up from 6.7% to 7.0%. This data has led to the Supreme Court expressing stress over the subsequent hike in the number of juvenile delinquencies in India⁶. Apex Court has also stressed upon the fact whether the present legislation has fulfilled its objective and a sense of unwarranted leniency can be traced with the juveniles in the name of rehabilitation which is increasing their propensity to commit such horrendous crimes.

⁴ The Juvenile Justice (Care and Protection of Children), Act 2015, s 15.

⁵ Prof. T. Murgesh & Prof. S. Kaliraj, *Redefining Juvenile Justice; More Accountable and Reformatory System Focused on Young Offenders*, (Indian Journal of Legal Review, (IJLR),4(1), of 2024, PG. 1429-1435, AIPS - 3920 -0001& ISSN – 2583-2344.)

⁶ <https://www.newindianexpress.com/opinions/2022/Dec/23/why-children-conflict-with-law-and-order-2531149.html#:~:text=Why%20children%20get%20into%20a,who%20are%20poor%20and%20defenceless.>

ADOLESCENT DELINQUENCY: A CONSTANT THREAT TO SOCIETY

Where the current law is considered one of the most significant steps taken in order to ensure juvenile justice, the present act also included the most crucial provision that was not addressed in the previous legislation which is holding accountable the children who have committed horrendous or heinous crimes since many of the brutal crimes were committed by the children between 16 to 18 years and to be tried as an adult. This stepping stone, however, was achieved only after a massive outcry occurred due to the Nirbhaya gang rape case⁷ where six men were alleged to have committed the most gruesome act by brutally raping a woman named Nirbhaya out of the six alleged men one of them was a juvenile who also turned out to be brutal out of all as he assaulted the victim with an iron rod due to which the citizens demanded that the young rapist be tried as an adult. Following the gruesome incident, the young offender faced arrest and was placed in a rehabilitation home in North Delhi due to being under 18 years and surprisingly, the Juvenile justice board dismissed these allegations, labelling them as mere 'media publicity'.

Recently, a Pune Porsche car mishap that took place on May 19 that claimed the lives of two IT experts was taken by a 17-year-old teenager who was operating a fast Porsche automobile while inebriated. The Juvenile Justice Board Member L. N. Danwade's decision to give the youngster bail with the condition that she write a 300-word essay⁸ on road safety has brought national attention to the case. This case has not only raised outrage in the nation but has also left a question on the juvenile justice system as the 'value of two innocent lives is equivalent to an essay'. In contemporary times these kind of cases raises a question mark upon the present legislation which encompasses provisions for holding children between 16 to 18 years accountable for committing 'Heinous Crime'. Therefore, public resentment has been fuelled up because of the wealth advantage through which blame can be shifted easily is understandable.

FROM HOME TO SOCIETY: HOW PARENTAL CONTROL SHAPES JUVENILE'S BEHAVIOUR

Parents play a pivotal role in shaping a juvenile's behaviour and their supervision plays a significant role in child-rearing. Although, parental control is related to juvenile delinquency

⁷ Mukesh & Anr State for NCT of Delhi & Ors, (2017)6 SSCI

⁸ *Pune Porsche accident: Why Bombay HC released the accused minor who killed two techies*, (25 June, 2024), <https://economictimes.indiatimes.com/news/india/pune-porsche-accident-why-bombay-hc-released-the-accused-minor-who-killed-two-techies/articleshow/111250353.cms?from=mdr> (Last visited 24 July, 2024).

is a matter of debate. In contemporary times, where children and families experience new socialization processes, the issue of parental control remains relevant.⁹ As per multiple research, it can be traced that children who are underprivileged and who do not receive proper care and due to environmental factors and less parental control are more prone to commit crimes.

However, establishing parental control during the adolescent phase, especially between 16 to 18 years has become a task as the adolescent phase is considered the most sensitive period for the development of an individual where the child goes through various physical and mental changes and this is a phase where young people tend to break free from the parental control and strive to belong to the peer group. During this period children end up spending more time outside the home outside the reach of parents and guardians where parental control cannot be established which leads to the development of antisocial and delinquent tendencies among the children. There are records that showcase that adolescents are particularly susceptible to peer influence due to their desire for acceptance and belonging therefore, they end up engaging themselves into delinquent acts to gain validation from their peer group. Therefore, effective support of family and positive social connection can act as an effective measure to eradicate negative peer influence. Along with parental control, it is also crucial to address the basic economic and social factors that become a threat to society and lead to delinquent behaviour of adolescents. Therefore, it becomes necessary for the parents to find new ways without direct control of the children to know how their children spend their time. However, authoritarian parental control might aggravate delinquent behaviour among children. Striking a delicate balance between control, supervision and entrusting children to their parents and the autonomy and independence of children is an ideal way through which delinquent and antisocial behaviour of adolescents can be eliminated and a path for a better life can be created.

UNDERSTANDING ADOLESCENT MINDSET

Adolescence is a phase that often tends to be motivated by short-term positive rewards rather than thinking about the threat of long-term punishment.¹⁰ The idea that was once thought to be a lack of maturity turns out to be Cognitive, Interpersonal and Neurological aspects which gives

⁹ Merdovic B. "et al.", *Parental Supervision and Control as a Predictive Factor of Juvenile Delinquency*, (International Journal of Cognitive Research in Science, Engineering and Education) (IJCRSEE),12 (1) 239-250

¹⁰ Zara Abrams, *The Psychological science of adolescent behaviour and decision -making is reshaping the juvenile justice system*, (November 1, 2022) .<https://www.apa.org/monitor/2022/11/juvenile-justice-system-teens> (Last visited 25 July, 2024).

adolescents a sense of liberty to explore and adjust as per the favourable conditions in order to gain traction. It is a period of transition from Childhood to Adulthood and therefore requires more nurturing and extra caution to ensure there exists non-delinquency.

Although the present mandate is said to have focused on rehabilitation as well as the mental health and well-being of Juveniles still there are gaps that are not yet filled as there are instances that show that the current legislation has failed to understand the Adolescent Psychology lack of training and knowledge on the part of staff dealing with juveniles, especially between 16 to 18 years of age tend to make them even more deviant but it also ends up worsening the situation. According to a National Commission for Protection of Child Rights report, children in childcare facilities experience a variety of Emotional Traumas, including intimidation threats by older prisoners and sexual abuse¹¹. Due to these factors, a sense of aggression and revenge goes into the minds of juveniles. Therefore, at the grassroots level, it is important to keep a constant eye on such childcare homes to ensure rehabilitation is established effectively without further aggravating the juveniles.

SACRIFICED RIGHTS OF VICTIM

Today the juvenile justice system has failed to establish a victim-oriented approach as the welfare and rehabilitation of young offenders has become the only priority of the juvenile justice system. As a result, a clear disconnect between the interests and the rights of the real perpetrator and the victim of juvenile offences therefore, it almost becomes a challenge for the victim to get justice and constant hopelessness pertains among the victim. as the victim has already undergone through mental or physical stress and in spite of providing him/her with justice by penalizing the juveniles, Rights of Victim are often end up getting sacrificed. Besides this, it also ends up raising a question on the juvenile justice system. therefore, it becomes crucial to penalize the juveniles who are habitual offenders or who have committed horrendous

¹¹Shipra Tiwari, *Juvenile Justice System in India and the Mental Health of Juveniles*, (5june,2021)

https://www.scconline.com/blog/post/2021/06/05/juvenile-justice-system/#amp_tf=From%20%251%24s&aoh=17218187651181&referrer=https%3A%2F%2Fwww.google.com&share=https%3A%2F%2Fwww.scconline.com%2Fblog%2Fpost%2F2021%2F06%2F05%2Fjuvenile-justice-system%2F&tf%3DFrom%2520%25251%2524s%26aoh%3D17218187651181%26referrer%3Dhttps%253A%252F%252Fwww.google.com%26&share%3Dhttps%253A%252F%252Fwww.scconline.com%252Fblog%252Fpost%252F2021%252F06%252F05%252Fjuvenile-justice-system%252F (Last visited 25july,2024).

crimes to create a sense of fear and responsibility among other individuals as rehabilitation might not be effective in certain situations.

The Rights of Victims tend to get sacrificed due to the merciful approach held by the current juvenile justice system. This tolerance towards juveniles was included to promote Rehabilitation. However, unwanted Tolerance is being proved fatal to the victim who has suffered any loss and injury due to the wrongful acts of juveniles. The mere fact rehabilitation is crucial but a constant need has always been felt to hold juveniles accountable for their actions and to promote a victim-oriented approach.

In the landmark Kathua gangrape case¹² where the juvenile accused of the violent gangrape and murder of an eight-year-old girl in Kathua is to be tried as an adult, according to the ruling of the Bench of Justices Ajay Rastogi and J.B. Pardiwala. The judgment's author, Justice Pardiwala, raised suspicion about whether the Juvenile Justice Act of 2015's compassionate approaches, which had the only goal of reforming juvenile offenders, had instead just served as an armour for them to perpetrate horrible crimes with relative impunity which persist.

CONCLUSION

The Juvenile Justice System has always been a question of debate. Juvenile justice always has a constant dilemma has always been seen between Accountability and Rehabilitation. Where the present legislation focuses largely on Rehabilitation. A constant need has been felt that in certain instances along with Rehabilitation accountability should also be established. Therefore, a delicate balance between rehabilitation and accountability is required to be maintained.

From the various instances one thing can be drawn in India holding juveniles indulged in horrendous crimes shall be punished with a sufficient amount of penalization also they are firm believers of the fact that if one commits an offence or omits the Laws they incur debt to the society. Therefore, from this viewpoint, this can be derived that Juvenile Offender shall be held Accountable and a sufficient amount of punishment to be given.

The Apex Court has also at times and instances shown great concern about the hike in the number of Juveniles committing grave and serious crimes even after the introduction of present legislation i.e. The Juvenile Justice (Care and Protection of Children) Act, 2015 which ends up

¹²Mohd. Akhtar vs the State of Jammu & Kashmir (CR.NO.1928 of 2022)

questioning the legality of the said act. Where need for Rehabilitation cannot be ignored or denied as it gives offenders a second chance to become a civilized individual however, providing Juveniles with unethical leniency might end up being more fatal as it works as an armour for them to commit more Horrendous Crimes. As the current system fails to create a sense of deterrence among the Juveniles.

During Adolescence, it becomes crucial to provide them with extra care as they tend to develop more delinquent tendencies as compared to that of other juveniles as multiple factors contribute them to engaging in wrongful acts such as Lack of Positive Parental Control, Negative Peer Group, Emotional Instability, Bad social-media, etc.

The need of the hour is to create a juvenile justice system that focuses on creating a balance between rehabilitation and accountability rather than putting any particular approach in a superior position. Justice can only be ensured if the system is more inclined towards protecting the rights of the victim or in other words making a victim-oriented approach as the rights of victims often get sacrificed under the burden of Rehabilitation and this is one of the most significant ways through which trust over the Juvenile Justice System can be reestablished.

