

"REFORMING THE FUTURE: A COMPREHENSIVE ANALYSIS OF JUVENILE JUSTICE IN INDIA"

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ABSTRACT

This paper talks about the various aspects of juvenile justice. For convenience, the paper has been divided into two parts. The first half of the paper talks about ascertainment of the age of a juvenile, role of lawyer, bail, significant issues with the juvenile justice act 2000. The second half of the paper describes the analysis of the act's significant changes, case laws, a short comparison of juvenile criminal law and conclusion.

INTRODUCTION

Prior to the introduction of British legislation, it was widely accepted in India that juvenile offenders were distinct from adult offenders. Both the ancient Muslim and Hindu laws stipulated distinct consequences for juvenile offenders. The recent era of juvenile justice in India dates back to 1850, when the first legislation was passed that addressed minor infractions or wandering juveniles below the age group of 15. (Kumari, 2015)¹ The sentencing, transformation, and recuperation processes that take place after a child commits a crime are collectively referred to as "juvenile justice" in this context. In a broader sense, it encompasses measures taken before the onset of delinquency. The Juvenile Justice Act of 2000 in India covers a broader range of delinquency prevention by including kids who require nurturing and support as well as making provisions for handling children who are suspected of having perpetrated an offence or who are proven to have done so. (Adenwalla, 2006)²

It started out simply by allowing for the signing of such minors over as trainees to learn a craft, but it quickly extended by creating distinct living spaces for kids who needed to be reformed. Soon after the separation of juvenile criminals from hardened criminals during the sentencing process, children's courts were established. The first standardised regulation for all of India was passed in order to guarantee the care, safety, transformation, and recuperation of miscreant and largely overlooked children as well as to forbid the use of

¹ Kumari, V., 2015. Juvenile Justice in India. New York University Press.

² Adenwalla, M. M., 2006. Child Protection & Juvenile Justice System. s.l.:Childline India Foundation.

jails and police stations for young kids under any given scenario. This is when these courts were introduced and were separated from current criminal justice system.

ASCERTAINMENT OF THE AGE OF A JUVENILE

It began by simply permitting the signing over of such juveniles as apprentices to acquire skills, but it rapidly expanded by building special housing for children who required to be transformed. Children's courts were created not long after the division of minor offenders from experienced offenders during the punishment process. In order to ensure the protection, safety, rehabilitation, and reformation of mischievous and widely overlooked minors and to also prohibit the use of prisons and police stations for youngsters in any circumstance, the first uniform ordinance for all of India was enacted. These tribunals finally found their footing at this point and removed their links to the administration of penal justice. It started out by just allowing such minors to join along as trainees to gain experience, but it rapidly grew by developing special accommodation for kids who needed to be changed. Upon the separation of juvenile delinquents from seasoned violators during the punishment procedure, children's courts were established. (Kumari, 2016)³

The first standardised law for all of India was passed to guarantee the security, welfare, recovery, and redemption of rebellious and frequently ignored juveniles as well as to forbid the use of jails and police stations for children under any circumstances. At this time, these courts had established their position and severed ties with the execution of criminal law. It initially only allowed these young people to participate as trainees to acquire experience, but it quickly expanded by creating special accommodations for children who were in need of reformed.

Children's courts were created after juvenile offenders were separated from repeat offenders during the disciplinary process. In order to ensure the safety, wellbeing, recuperation, and repentance of disobedient and frequently disregarded minors, as well as to outlaw the utilization of prisons cells and police stations for kids at any time, the first uniform legislation across the country was enacted. These judges had already set their stance and cut connections with the application of criminal procedure at this point. (Barry Krisberg, 1993)⁴

ROLE OF LAWYER

fair play for a minor must be ensured by defence counsel. It is better for a young person to be defended by an experienced attorney who understands the basics of juvenile law. Since they are young, minors cannot effectively engage in their investigation when attorneys are not present. They are not familiar with the judicial system's jargon, processes, or subtleties. The Beijing Rules addressed "juvenile justice" and the requirement for legal counsel in juvenile trials on a global scale which has never been done before.

³ Kumari, V., 2016. THE JUVENILE JUSTICE ACT 2015-CRITICAL UNDERSTANDING. Journal of the Indian Law Institute, Volume 58.

⁴ Barry Krisberg, J. F. A., 1993. Reinventing Juvenile Justice. s.l.:Sage.

According to Article 39A of the Indian Constitution, "The State is obligated to guarantee that the administration of the judicial process encourages fair trials, on the premise of equal opportunity, and will henceforth, specifically, offer additional free legal assistance, by appropriate regulations or initiatives or in an alternate manner, to guarantee that options for obtaining fair trials are not refused to any resident on account of economic or other incapacities." In accordance with this fundamental clause, the Indian government passed the Legal Services Authorities Act in 1987, and the States developed their own legal assistance programmes, particularly for minors. (Sharma, 2021)⁵

BAIL

These youngsters were originally only permitted to take part as learners to gain experience, but it rapidly grew by making special allowances for kids who needed to be reformed. After minor criminals and repeat offenders were segregated during the compliance program, children's tribunals were established. The first consistent laws were passed across the nation to ensure the security, well-being, recovery, and redemption of stubborn and usually overlooked juveniles as well as to forbid the use of jail cells and police stations for children at any time. By this time, the courts had already taken a position and severed ties with the use of criminal process. (Agarwal, 2018)⁶

Initially, such minors have only been allowed to participate as trainees to acquire exposure, but it quickly expanded by providing special accommodations for students who required reformation. Children's courts were created after juvenile criminals and chronic offenders were separated during the reporting system. To ensure the safety, welfare, recuperation, and salvation of obstinate and frequently disregarded minors and to also prohibit children from ever using prison cells or police stations, the first uniform laws were enacted across the country. The judiciary had by now taken a stance and cut links with the application of criminal procedure by this point.

At first, these juveniles were only permitted to take part as apprentices to gain experience, but it rapidly grew by offering special arrangements for students who needed transformation. After the monitoring mechanism divided minor abusers from persistent delinquents, children's tribunals were established. The very first standardized regulations were enacted throughout the nation to guarantee the security, welfare, recovery, and redemption of rebellious and widely ignored minors as well as to forbid kids from ever entering jails or police stations. By this time, the judges had already adopted a position and severed ties with the use of judicial proceeding.

⁵ Sharma, S., 2021. Critically analyze Article 39 of the Indian Constitution..

⁶ Agarwal, D., 2018. JUVENILE DELINQUENCY IN INDIA- LATEST TRENDS AND ENTAILING AMENDMENTS IN JUVENILE JUSTICE ACT. People: International Journal of Social Sciences, 3(3).

SIGNIFICANT ISSUES WITH THE JUVENILE JUSTICE ACT, 2000

1. No lenient punishment guidelines
2. Under this system, a juvenile who, for example, engages in armed theft to support himself would receive the same highest sentence as a serial murderer with rape charges does—so long as both are under the 18 years of age. This is the Act's major issue, according to experts.
3. There isn't any rational or factual evidence that demonstrates that a juvenile, criminal, or kid in violation of the legislation can accomplish total and full recovery within three years. (Bitna Kim, 2015)⁷
4. The deed ignores the bodily and mental development of a minor.
5. The Legislation did not take into account 13 clauses of the 1993 Hague Agreement on the Children's Protection and Collaboration in Regard of Cross country Adoption.

ANALYSIS OF THE ACT'S SIGNIFICANT CHANGES

1. Instead of the previous 30 days, any kid who is discovered conducting any offence will now undergo a quick review for a duration of three months.
2. It is further clarified that the early evaluation is not a judgement but rather a determination of the minor's criminal propensity.
3. Under the Act, a Juvenile Justice Commission, made up of psychiatrists and researchers, will be able to determine whether or not a juvenile offender between the ages of 16 and 18 should be prosecuted as an adult. (Mehta, 2008)⁸
4. A revised fair trial provision has been introduced, according to which the evaluation will consider the child's special requirements in accordance with the principle of a fair trial in a setting that is in favour of minors.
5. No penalty resulting from a sentence mentioned in the Act will be imposed on the kid.
6. Apart from the cases of egregious offences, the documents of any judgement will be eliminated after the appeals time has expired.
7. As opposed to the current 30 days time period, birth parents who offer their children up for adoption will now have three months to change their minds.

⁷ Bitna Kim, W.-C. A. L. & G. L., 2015. Comparative/International Research on Juvenile Justice Issues: A Review of Juvenile Justice Specialty Journals. *Journal of Criminal Justice Education*, 26(4).

⁸ Mehta, D. N., 2008. *Child protection and juvenile justice system.. s.l.:Childline India Foundation.*

8. The Legislation makes foster care available in India.
9. The child's post-institutional treatment will not be limited to a single visit.
10. Any kid who is no longer receiving institutional care may now get financial aid more than once.
11. In interstate adoption, children with disabilities will be granted preference.
12. Rather than the current 30 days, orphaned children discovered by daycare centres will now be held for 2 months before being placed in foster care or up for adoption.
13. The actual parents of a minor who has been neglected by them because of inevitable conditions are not regarded as wilfully leaving the child.
14. The council will now consult with seasoned counsellors and medical experts when deciding whether to challenge a decision made against a kid.
15. Special juvenile units of the police force will now receive appropriate instruction.
16. The NCPCR and SCPCR will serve as the nodal officials in charge of overseeing execution, publicising the revised act, and investigating instances that result from the Act. (Bajpai, 2019)⁹
17. The Juvenile Justice Commission will have wide discretion to send minors to criminal court for prosecution and penalties. One might predict that since JJB is ruled over by the district's Chief Judicial Magistrate, there would appear to be a greater likelihood that teenagers would be transferred to municipal court.
18. Judicial weavers, as described in the current Act, may transform a minor into a violent offender and submit them to the authority of the normal criminal court to be prosecuted as an adult.
19. This law offers outlined distinct procedures for each type of crimes, categorising them as minor, severe, and egregious.

CASE LAWS

RAVINDER SINGH GORKHI CASE (RAVINDER SINGH GORKHI VS. STATE OF UP, 2006)¹⁰.

Similar to Gopinath Ghosh's case, the Apex court of India heard the argument of juvenility that has never happened before. According to the then-current U.P. Children Act 1951, Ravinder Gorkhi asserted in the Supreme Court that he was a minor on the date of the crime, which was May 15, 1979. The Sessions

⁹ Bajpai, G. S., 2019. Juvenile Justice: Impact and Implementation in India.. s.l.: Bloomsbury Publishing.

¹⁰ RAVINDER SINGH GORKHI VS. STATE OF UP (2006).

Court was asked to address the issue of the accused's age. The applicant cited a school leaving certificate in which the birth date was listed as 1 June 1963; as a result, the Sessions Judge made a judgement of juvenility. At the time of the crime, Ravinder Gorkhi was just below the age of 16 years, making him a minor under the U.P. Act. The civil suit was dismissed after the Apex Court of India rejected the Sessions Judge's conclusion. The records entered in the school leaving certificate, obviously had already been created for the objective of the lawsuit," the Supreme Court stated. Instead of the initial school leaving certificate, the "copy" was presented in court. Furthermore, the admission record was not produced by the Principal who testified. This was the final straw. "There is no authentic records available. If the said record had been provided, its legitimacy could have been investigated.

RAISUL CASE (RAISUL VS. STATE OF UP , 1977)¹¹.

In this case, the Apex Court of India ruled that the estimation of the courts cannot accurately predict an offender's age and instead chose to depend on the age stated by the offender in his section 313 CrPC testimony. in the declaration made by him under section 313 of CrPC, which was made nearly a year subsequent to the offence, the accused stated that he was 18 years old.

Despite not being a minor under the U.P. Children's Act of 1951, Raisul's demise penalty was reduced to life in prison because of his young age. However, we do not believe that the Sessions Judge in addition to the High Court were accurate in simply replacing their own prediction with respect to the age of the complainant alongside the grounds of such approximation, rejecting the appeal. It is correct that perhaps the Sessions judge upon glancing at the appellant considered that he must be at least 24 years old, as well as the High Court also, upon seeing the complainant personally, believed that the prediction of age presented by the judge of the session court was completely right. The power of appearances to fool.

SATYA MOHAN SINGH CASE (SATYA MOHAN SINGH VS STATE OF UP, 2005)¹².

The defendant was sentenced to life in jail by the Trial Court for violating provisions 302 and 307 of the IPC. The Supreme Court affirmed the verdict. Although the Trial Court had not been presented with a claim of juvenility, "when the issue of sentence awarding was being examined, on account of the appellant, it became evident that his age was fifteen years in the month of December 1980 as the decision was being given by the trial court. The appellant's age was estimated by the sentencing judge to be between sixteen and seventeen years old in December 1980. The incident had occurred in December 1979. Consequently, even by the trial court's estimation, the defendant was between the ages of fifteen and sixteen on the day of the incident. According to section 2(4) of the Act, the complainant was a minor on the date of the incident, as demonstrated by the trial court's view. In doing so, the Supreme Court affirmed the verdict and overturned the punishment,

¹¹ RAISUL VS. STATE OF UP (1977).

¹² SATYA MOHAN SINGH VS STATE OF UP (2005).

declaring the appellant to be a "child," or someone under the age of 16, according to the U.P. Child protection Act.

A SHORT COMPARISON OF JUVENILE CRIMINAL LAW

CANADA

The YCJA (Youth Criminal Justice Act) regulates how a lawbreaker and correctional legislation is applied to people who are 12 years old or greater but under the age of 18 when they conduct an offence. Depending on the circumstances, juveniles between the ages of 14 and 17 may be prosecuted and/or punished as adults under the act's later provisions. In the Youth Criminal Justice Act, all proceedings will occur in youth courts, but a juvenile may obtain an adult sentence for some crimes and under certain conditions.

PAKISTAN

When a juvenile below 15 years of age is held or detained for a crime that carries a sentence of at most ten years in jail, it is assumed that the child has been charged with a crime that is subject to bail. No minor below 15 years of age may be detained without a warrant under any precautionary custody legislation or under Chapter VIII of the Criminal Procedure Code.

As long as there are probable indications that the child has committed a crime that the court deems to be severe, egregious, horrific, vicious in nature, or disturbing to public decency, or if the minor has previously been convicted of a crime that is subject to death or life imprisonment, the jury may decline to approve the bail when a child of fifteen years or older is arrested. (BABAR, 2018)¹³

There are some general observations that can be drawn about the management of young offenders regardless of the differences in particular problems across areas. There is still a dearth of complete application in reality even though the majority of nations have made commitments in theory to a thorough system of juvenile law, with many having special laws for juvenile offenders.

CONCLUSION

With the adoption of the Juvenile Justice (Care and Safety of Children) Act, 2015, the juvenile justice system in India has advanced significantly in recent years, according to the Code of Criminal Procedure (CrPC). The Act, which replaced the previous Juvenile Justice Act of 2000, seeks to offer a thorough legal structure for handling juvenile offenders.

The Act stresses recovery and readmission rather than discipline for children who are in trouble with the law, which is in line with the ideals of restorative justice. To guarantee the correct execution of the Act, it also creates juvenile justice boards (JJBs) and child welfare committees (CWCs) at the district and state levels.

¹³ BABAR, M. A. V., 2018. THE LAW FOR JUVENILE INJUSTICE: CRITICAL ANALYSIS OF JUVENILE JUSTICE (CARE AND PROTECTION) ACT, 2015. JOURNAL OF LEGAL STUDIES AND RESEARCH, 4(2).

Nevertheless, there remain some issues with the Act's execution, such as a dearth of qualified experts, infrastructure, and assets to support children who are in legal trouble. To address the underlying reasons of adolescent crime, there is also a need to place more focus on precautionary steps and diversion programmes.

Ultimately, the youth justice system in India has made progress towards a more constructive and therapeutic strategy, according to the CrPC. To guarantee the safety and recovery of minors who have broken the law, the Act's execution still has space for development.

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