

# Study on Juvenile Justice and Legal AID

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**Abstract** - The topics of adolescent delinquency and access to legal aid take centre stage in this piece. The Act makes it mandatory for individuals of any age to have legal representation. In 1973, the government of India appointed Krishna Iyer to head a committee that would investigate the possibility of the states developing and implementing their own individual legal aid systems. The Committee recommended that the principle of providing citizens with access to legal aid be included into the constitution. As a direct consequence of this, Article 31-A was inserted into the Principles of State Policy Directives. The Committee for the Implementation of Legal Aid Services (CILAS) was established by the Central Government in 1980, and it is still in operation to the present day.

**Keywords** - children, Legal Aid, juvenile justice.

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## INTRODUCTION

Legal aid programmes in India failed to give effective and knowledgeable legal assistance and counsel in the country's private market sector of the legal services industry. When India first gained its independence, there was a lot of confusion over the extent of its legal assistance programme. After India attained its independence, the Chief Justice of the Bombay High Court, NH Bhagwati, and the Chief Justice of the Calcutta High Court, Trevor Harris, respectively, established legal assistance services. The matter of legal help was also brought up in front of the law commission, and they were requested to provide recommendations on how the legal aid programme might be made into a more efficient instrument for the promotion of social justice. In its 14th report, the panel, which was led by the well-known judge M.C. Setalvad, presented suggestions suggesting that the state should provide free legal help to individuals who are classified as low-income. In addition to taking the pledge, the state is obligated to put aside funds to provide help in legal matters. It is imperative that members of the legal community take an active part in the process of voluntarily accepting responsibility for the management and operation of legal assistance programmes. These would require the government to pay for legal representation for accused individuals for the course of the criminal procedure, as well as incarceration and appeals.

The Commission also suggested that the phrase "poor individuals" should be used in lieu of the term "pauper" in Order 33 of the CPC. On the advice of the Law Commission, the Government of India established a comprehensive programme of legal aid in all courts and tribunals in the year 1960. This programme was founded on the recommendations of the Law Commission. In it, the establishment of committees at the state, district, and tehsil levels was advocated for. Despite this, the system could not survive since it was

impossible for governments to put it into practise because of a lack of financial resources. In 1973, the government of India appointed Krishna Iyer to head a committee that would investigate the possibility of the states developing and implementing their own individual legal aid systems. The Committee suggested that committees for providing legal help should be created at all three levels: district, state, and federal. Help in establishing independent enterprises should be sought from legal aid programmes housed at educational institutions as well as from practising attorneys. In order for the Legal Aid Scheme to be carried out effectively, the government of India established a commission, which PN Bhagwati J. serves as the head of. Legal Aid Camps and Nyaylayas became popularised in more remote areas as a result of this initiative. The Committee recommended that the principle of providing citizens with access to legal aid be included into the constitution. As a direct consequence of this, Article 31-A was inserted into the Principles of State Policy Directives. The Committee for the Implementation of Legal Aid Services (CILAS) was established by the Central Government in 1980, and it is still in operation to the present day. It continues to provide funding and assistance for a number of committees operating at varying levels. Legal assistance is provided to State Legal Aid and Advice Boards as well as Paralegal Institutions under this act, which also led to the establishment of the Supreme Court Legal Assistance Committee. CILAS also commissioned a study to investigate the impact that PIL has had on legal aid programmes around the country. According to the statement made by the Court, "it is vital component of fair, open, and reasonable procedure for a prisoner seeking release via the courts process to have legal services accessible to him." [Citation needed] ... Any "reasonable, fair, and just way" must include free legal support for the poor and the needy. The phrase "nil novi spectrum," which comes from

Latin and means "nothing new on this globe," is the "phrase that best represents India's juvenile justice system. There is a way of thinking that suggests minors should be treated more leniently, and from ancient times, people all across the world have held the presumption that this way of thinking implies that they should be treated more leniently. Young individuals have a propensity to respond with significant and prolonged frustration, which is frequently accompanied by aggressive behaviours".

It has been stated that in recent years, there has been a significant increase in the number of crimes perpetrated by youngsters between the ages of 15 and 16. The basic inclinations or psychologies that are at the root of the "commission of crime or the causes of crime may be broken down into a few categories: early-life experiences; dominant masculinity; upbringing; economic disarray; lack of education; and so on. It is a cause of shame to use children less than six years old and younger than ten years old as instruments for carrying out illegal or criminal activities". Children's minds are innocent and easily manipulated; therefore it is possible to coerce them into doing anything in exchange for a small payment.

### **Supreme Court of India in case1 to establish legal aid centres attached to JJBs.**

"When a child is brought before the Board by the police, the Board should call the legal aid lawyer, present the juvenile and his/her family/parents to the counsel, and explain to the juvenile and his/her family/parents that it is their right to have a legal aid lawyer and that they do not have to pay any costs for the representation they receive from the attorney".

1. The JJB needs to allow time for a legal assistance counsel to meet with the juvenile and his or her parents before having an actual hearing.
2. The Juvenile Justice Board is required to specify in the order that it issues the fact that a legal aid counsel has been assigned, as well as the name of the legal aid lawyer and whether or not they are present.
3. The attorneys who provide legal help and the Juvenile Justice Board ought to work together in an environment characterised by mutual respect, solidarity, and collaboration. It has the capability of bringing about a fundamental change in everything.
4. Legal Aid Lawyers may have a better understanding of juvenile justice law and delinquency if they study about the topic and participate in seminars and trainings on the subject of juvenile justice.
5. An attorney who provides legal aid should maintain a diary at the office in which the case dates are routinely entered.
6. "If a legal aid lawyer is on leave or unable to attend Board on any given day, he or she is responsible for ensuring that cases are handled by a colleague legal aid lawyer in his or her absence

and that no cases are overlooked. In the event that a legal aid lawyer is on leave or unable to attend Board on any given day, he or she should ensure that this responsibility is met".

7. Attorneys working for legal aid programmes shouldn't consider their work to be a kind of charity; instead, they should strive to offer the highest quality service they are capable of.
8. The District Legal Services Authority should invite the Legal Aid Lawyer to their monthly meeting so that they may address any questions, issues, or challenges they are facing.
9. A legal aid attorney is responsible for keeping a record of the progression of each case and writing daily updates.
10. Before accepting a client's case, a lawyer working for Legal Aid should not wait to be contacted by JJB. It is imperative that an effort be made to follow cases on his or her own by speaking with families that come to JJB.
11. Legal Aid Attorneys have a responsibility to instil faith and confidence in the children and families whose cases they manage, and they have a duty to do all in their power to aid those individuals.
12. Legal Aid attorneys have a responsibility to adhere to the guidelines and requirements outlined in their legal aid panel empanelment.
13. Within one week of the beginning of each month, Legal Aid attorneys are required to submit their monthly work done report to JJB for verification. After that, the report is to be sent to the proper authorities together with an attendance certificate for the purpose of payment processing.
14. The Legal Aid Lawyer is obligated to inform the client of the upcoming hearing date and give the client with his or her phone number so that the client can get in touch with the Lawyer in the event of an urgent matter.

According to Lord Denning, "the creation of the mechanism of the system for legal aid has been the biggest change in the law since the post-second world war," noting that legal aid is a system of government support for individuals who are unable to pay for advice, assistance, or representation. "The biggest change in the law since the post-second world war has been the creation of the mechanism of the system for legal aid," It gives the impression that the state, and not the party at issue, is responsible for paying the attorneys' fees and other costs in the majority of cases. Because it is such an important matter, I am going to investigate the legislation on costs in the past, in the present, and in the future to determine how it should be.

### **OBJECTIVE**

1. Research on children's rights and safeguards.
2. To do research on juvenile justice and legal assistance..

A "child-friendly approach" in the resolution of cases that are in the best interests of children is one of the primary goals of the Juvenile Justice Act. Another goal of the act is to promote the rehabilitative efforts of juvenile offenders through the institutions and bodies that have been established as a result of the act. The Juvenile Justice Act was passed in order to address the needs of children who are in conflict with the law and are in need of care and protection.

In accordance with the provisions of subsection 8 (3)(b) of the Juvenile Justice Act 2015, the responsibility of the Juvenile Justice Board is to ensure that children have access to legal representation through organisations that provide legal services.

According to subsection xviii of section 30, one of the functions and tasks of the Child Welfare Committee is to ensure that children have access to appropriate legal representation.

According to Section 53(1) of the Act, institutions that are recognised under the act for the purpose of providing services related to rehabilitation and reintegration may, if appropriate, integrate legal assistance (8)..

#### **Juvenile Justice Act, 2000**

The Act was finally signed into law in the year 2000 with the intention of making the world a safer place for children. The previously described underwent two separate modifications. The inaugural year was 2006, and the most recent one was 2011. A modification was suggested in order to close the implementation gap and loopholes that were found. In addition, legislators were obligated to enact the measure since there has been an increase in the number of juvenile criminal cases in recent years, as well as the horrible incident that occurred in the Delhi Gang Rape Case. The fundamental problem with the Act is that it does not contain sufficient legal measures, and the Indian juvenile justice system is also an essential component in the fight against juvenile crime. This law was swiftly rendered obsolete by the Juvenile Justice (Care and Protection) Act of 2015.

#### **India's Current Juvenile Justice System**

"India, like other nations, has enacted legislation that expressly addresses the rights and protection of juvenile offenders in order to combat the issue of juvenile delinquency".

#### **In India, the juvenile justice system is built on three fundamental assumptions:**

Instead than prosecuting juvenile offenders in court, every possible effort should be made to correct the behaviour that led to their arrest. They ought not to be punished by the courts for their actions, but rather they ought to be offered the opportunity to reform. Children who have breached the law should face trials that are

focused on community-based, non-punitive therapy through social control organisations such as Observation Homes and Special Homes rather than traditional criminal prosecution.

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

The Juvenile Justice Act of 2000 was succeeded by the Juvenile Justice Act of 2015 because there was a need for a more powerful and effective court system that focused on both deterrent and reformatory tactics. The Juvenile Justice Act of 2000 had been in operation since 2000. The way that juveniles are treated should be distinct from the way that adults are treated; there have been debates in Parliament about whether or not juveniles ought to be given more leeway for transformation, reform, or advancement, and it has been argued "that this can only take place if there is a specialised judicial system in place".

"As a consequence of this, the new Juvenile Justice (Care and Protection of Children) Act, 2015 places an emphasis on using a method that is juvenile-friendly while adjudicating cases and finding solutions to problems".

#### **The following are some of the most notable characteristics:**

According to "Section 2 (12) of the Juvenile Justice (Care and Protection of Children) Act, 2015, the definition of a child is a person who has not yet attained the age of 18, which means that he or she is less than 18 years old". This is also referred to as being "under the age of 18." According to Section 2 (13) of the Juvenile Justice (Care and Protection of Children) Act, 2015, the term "child" can fall into one of two categories: "child in need of care and protection" or "child in conflict with the law." (This definition can be found in the Act.)

There was a distinct difference drawn between the magnitudes of the infractions, which gave the impression that "the deeds were categorised as heinous, serious, or little. If a child between the ages of 16 and 18 is caught committing any type of crime, they may be tried as an adult after undergoing an intensive evaluation to determine whether or not they are mentally competent".

The establishment of juvenile courts necessitated the establishment of specialised courts that would be dedicated solely to the processing of cases involving juvenile offenders. These new courts included NDPS courts, POCSO courts, and others of their like.

With the passing of the Juvenile Justice (Care and Protection of Children) Act, 2015, the scope of the concept of a child who is in need of care and protection was broadened. This was accomplished by taking into account the following points, which are

among the numerous that are specified in Section 2 (14) of the aforementioned act.

- Those whose guardians or parents are/were judged to be unsuitable or disinterested in caring for the kid;
- "Those who are/were discovered to be conducting illegal labour".
- Those who are on the verge of marrying before reaching the required legal age.
- "The definition of adoption has also been defined in the Act, which recognises the rights of adopted children"..

### Child Rights and Child Protections

A benefit is a contract that is created between the people who have a benefit (commonly referred to as "rights-holders") and the people or organisations who have obligations and commitments in connection with the affirmation of that benefit. A benefit is a contract created between the people who have a benefit and the people or organisations who have a benefit (as often as possible suggested as the "commitment bearers".) Children are entitled to their own set of unique human rights, known as children's rights, until they reach the age of eighteen. The majority of a child's rights are defined by the United Nations and the Convention on the Rights of the Child, which is a component of the United Nations (UNCRC). According to the UN Convention on the Rights of the Child, child rights are the most fundamental capabilities and opportunities that ought to be accessible to all individuals under the age of 18, irrespective of their race, colour, sexual orientation, vernacular, religion, evaluations, sources, money, birth status, or restriction; consequently, child rights apply to everyone, everywhere. According to the United Nations, these rights are interdependent and inalienable, which means that achieving one benefit cannot be done at the expense of achieving another. The United Nations Convention on the Rights of the Child was established with the purpose of determining which aspects of human rights should have been reserved only for children. These rights come with a total of four expansive game plans. These four agreements include all aspect of a child's life, including their knowledge as well as their social, political, economical, and societal benefits.

A Fight for the Right to Live: Even before he or she is born, a kid has the right to continue existing in this world. The Government of India believes that a child's life does not begin until until twenty weeks have passed since birth. Therefore, the value of living trumps any purported rights that adolescents may have, such as the advantage of having access to fundamental necessities like food, housing, and clothing, as well as the benefit of being treated with respect in daily life.

Legal entitlement to protection: An adolescent has the right to be shielded from neglect, abuse, and other forms of ill treatment both in their own country and elsewhere. Right to Participate: Adolescents have the legal right to take part in any critical decision-making process that either directly or indirectly affects them in some way. Depending on the child's age and stage of development, the activity can be approached in a variety of different ways.

The right to development ensures that children have access to a wide range of possibilities, which may include the development of their mental, emotional, and physical selves. An enthusiastic transformation requires genuine care and affection for a system that is consistently stable, mental development through preparation and study, and physical development through stimulation, play, and nourishment. All of these factors contribute to the development of the transformation.

### What is Child Protection?

According to UNICEF, the prevention or resolution of youth confirmation is the avoidance or response to the abuse, exploitation, viciousness, and nonchalance of children. This includes sexual misbehaviour in the workplace, human trafficking, labour by teenagers, and harmful standard practises such as female genital mutilation/cutting and child marriage. Teenage labour is also included in this category. Affirmation also gives young people access to their special advantages in terms of surviving, transforming, growing, and engaging in exciting adventures. According to the United Nations Children's Fund (UNICEF), when there is little or no child security, there is an increased risk of death, poor physical and mental health, HIV/AIDS illness, educational obstacles, migration, vagrancy, and inadequate capacities to raise children. Protecting children from dangers that might endanger their lives or prevent them from reaching maturity is the primary objective of the Integrated Child Protection Scheme (ICPS), which serves as an example. It is about making certain that children are put in potentially hazardous settings and, as a consequence, lowering their susceptibility by protecting them from harm and precarious circumstances. The concept of "kid affirmation" refers to the practise of ensuring that adolescents have a safety net on which they can rely and that, should they fall through the cracks in the system, that system will commit to providing the child with the critical thinking and rebuilding skills necessary to bring them back into the prosperity net. Kid affirmation is the cornerstone of the "safety net" concept.

### Concept of Children's Rights:

It is essential to have a solid grasp of the distinction between the two ideas. The concept of children's rights is one that is grounded in theory or model. They are abilities, and some of them are



comprehensible in a business environment, but they are not acknowledged in any way. One of these rights is the right to feel secure. Regardless, the protection of children is more than just an advantage. It provides a structure or a framework within which the benefits that can accrue to a kid can be realised. In the event that a child's rights are violated in any way, the perpetrator will be brought before the community's reverence and belief system. The structure has specific duty bearers, such as the divisions of the association, the police, the school, and typical society, who all have roles to play in ensuring that a child's rights are fulfilled. Both treatment and prevention are involved in providing safety for pre-adults. In each and every circumstance or location, hazard organisations are obligated to make efforts to lessen the likelihood that children's rights may be violated. Therefore, when people talk about child safety, they are referring to the practises that ensure a child's other rights are protected. For instance, a kid has a significant advantage over a typical youngster when they are in a setting with their family. The system for the protection of children needs to work out first how to ensure that families are able to make ends meet by supplying them with opportunities for success, opportunities for preparedness, and sustenance endlessly or at no cost at all. The next step is to address the requirements of adolescents who, as a result of lacking general emotional awareness, have the potential to become confused. These adolescents include orphans, disadvantaged children, and children who have been abandoned. The framework brings together the resources that are necessary to integrate these children and teenagers into households, whether via adoption, child care, or foster care, and to give them with possibilities for success and to get them ready for the future. Along these same principles, the structure is not an one organisation or controlling agency but rather the interlinking pieces of all of the many systems and parts.

### **Causes of Juvenile Delinquency**

According to studies and research, there are many reasons of adolescent delinquency in India. Every individual, even children, has various behavioural tendencies. Early infancy behaviour patterns emerge, and identifying any kind of behaviour at this age is quite difficult. However, as the kid matures and enters the real world, his or her behavior patterns vary with time, and various conditions or situations may trigger delinquent conduct in them.

### **The following are some of the factors that contribute to juvenile delinquency:**

**Instability During Adolescence:** The behaviour of adolescents is impacted by a variety of factors, including biological, psychological, and sociological factors. At this point in their development, adolescents are more self-aware regarding their appearance and sense of style, as well as their approach to pleasure, eating, and play. At this age, they have a strong desire

for freedom and independence, but their parents, teachers, and other adults in their lives may not always provide them the opportunity to pursue these goals. This adds to the development of antisocial behaviour in these children. Therefore, antisocial behaviour, biological changes, and psychological variables are all elements that play a role in the development of juvenile delinquency.

**Degradation of the Traditional Family Structure:** The breakdown of the traditional family unit combined with a lack of proper parental supervision is the primary contributor to increasing rates of adolescent criminality. Divorce between the parents, a lack of parental control, a lack of love and affection, and other similar factors are frequently the root causes of juvenile misbehaviour.

**Poverty and the state of the economy:** Poverty and the state of the economy are also major factors that are contributing to the growth in the criminal activity of adolescents. As a result of poverty, parents or guardians are unable to satisfy the requirements of their children. As a result, children demand that their wants be met by their parents by whatever means necessary, and once those requests are met, they start stealing money from the homes of other people's parents. And as a direct result of this, a pattern of stolen behaviour emerges, which in turn leads to widespread theft.

**Movement:** The migration of homeless and poor teenage boys to slums regions exposes them to anti-social elements of society who participate in illegal activities such as prostitution, drug smuggling, and a variety of other illegal activities. Teenagers are drawn to these kinds of activities, and as a result, they could participate in them.

Children who have been sexually abused or have been subjected to any other form of unwanted physical abuse in their early infancy may develop ugly behaviour and ideas as a result of the harm they suffered. At this age, they might become more transient or seek out sexual experiences for themselves. An excessive amount of sexual variety may inspire young men to engage in criminal behaviour such as kidnapping and rape.

**Styles of Living in Keeping with Today's Times** Children and teens have a tough time adjusting to new ways of life as a direct result of the rapidly shifting social patterns and contemporary living styles. They are unable to tell the difference between right and wrong, which contributes to the cultural difficulties they experience.

### **Courts for minors**

It is the responsibility of the juvenile court, commonly referred to as a children's court, to hear cases involving children who have committed crimes, been neglected, or been subjected to abusive treatment. It

is imperative that the court procedures be carried out in an informal and paternalistic manner in order to ensure that the juvenile is dealt with in a manner that is both comfortable and child-friendly. According to the Juvenile Justice Act and the principles of the Criminal Code Procedure, children are not to be brought before a regular criminal court. The purpose of a special court is not punishment but rather socio-legal rehabilitation and reformation. There are two types of cases that are heard in a juvenile court: civil cases that deal with the care of a child who has been abandoned or whose parents are unable to provide for him, and criminal proceedings that deal with the child's antisocial behaviour.

## CONCLUSION

In addition, the Integrated Child Protection Services Scheme has been implemented by the Indian government in order to manage the children who are in need of attention and certification. As a direct consequence of this, a great deal of regulations have been analysed, and significant examples have been emphasised. The Legal Services Authorities Act of 1987 includes a definition of "Legal Service" in Section 2(1)(c). This definition states that "Legal Service" refers to "any service rendered in the conduct of any lawsuit or other legal action before any court, other authority or tribunal, including the delivery of legal advice." Providing low-income members of society with access to legal counsel that is both free and of a sufficient standard was the driving force behind the passage of the aforementioned Act. The preamble of our Constitution includes provisions that fundamentally ensure social, economic, and political fairness for all Americans. The inclusion of in the Directive Principles of State Policy in 1976 compelled the state to offer free legal help in order to accomplish the goal of justice on an equal footing for all parties involved. The foundation of our judicial system is the principle that everyone should have the same opportunities to pursue legal remedies. Having access to justice that is both inexpensive and prompt is a fundamental human right. However, in practise, all legal services have been awarded to the party who submitted the highest price. The affluent and the heads of significant corporations typically receive the finest advice.

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