

Evolution & Emergence of Juvenile Justice System in India

Kushagra Pareek^{1*}, Dr. Monika Mishra²

¹ Research Scholar, Apex School of Law, Apex University, Jaipur (Rajasthan)-303002

² Supervisor, Apex School of Law, Apex University, Jaipur (Rajasthan)-303002

Abstract - Anyone under the age of 18 is referred to as a "Juvenile" or "Child." Any individual under the age of 18 is considered a "Child" under international law. This definition of a kid comes from the United Nations Convention on the Rights of the kid (UNCRC), which is now universally recognized. Any person under the age of eighteen is considered a "juvenile" or "Child" under Section 2(k) of the Juvenile Justice Care and Protection of Children Act, 2000. The children of a nation are its future. Therefore, everyone has a duty and obligation to make sure that the children live in a safe environment. However, like a sickness in our society, juvenile criminality has been found to drastically decline in a growing nation like India. By concentrating on the rules of the Juvenile Justice Act, 1986, 2000, 2014, and 2015, this research attempts to explain the development of juvenile justice legislation from British India to the current democratic India. Although there is a safety regulation for these kids, the number of juvenile offenders is increasing nationwide, which is a major problem for the nation. Regardless of who is involved or the circumstances, justice delayed is justice denied. India, a country with great diversity, struggles with too many aspects of justice, from the social to the judicial levels. There are too many difficulties with juvenile justice in India, according to a variety of topics, but the study also seeks to identify the kinds and causes of juvenile crimes in our society. In closing, some recommendations for preventing juvenile crimes have been offered by elucidating the development of juvenile justice in India.

Keywords - Juvenile Crimes, Delinquency, Adolescence, UNCRC, Child Welfare Committees (CWCs), Juvenile Justice Boards (JJBs), Reformatory Schools

-----X-----

INTRODUCTION

A child is a member of society from the time of his birth until the time of his death. He will be inspired as he matures by what he observes in his surroundings and in the social context. Anyone under the age of 18 is referred to as a "Juvenile" or "Child." A "Child" is defined by international law as any person who is less than 18 years old. This definition of a child is now recognised worldwide and is derived from the United Nations Convention on the Rights of the Child (UNCRC). The Juvenile Justice Care and Protection of Children Act, 2000's Section 2(k) defines "juvenile" or "Child" as a person who has not reached the age of eighteen. The juvenile justice system, as defined by the Indian Constitution, supports and provides particular methods to the prevention, deterrence, avoidance, and treatment of juvenile misbehavior.

ROOTS & CAUSES OF JUVENILE DELINQUENCY

Delinquency among youth has a behavioral component. Every single individual, even youngsters, has their own unique behavioral tendencies. Early on in life, behavior patterns begin to take shape, making it exceedingly difficult to pinpoint any certain kind of

conduct. However, as soon as a kid grows up and enters the real world, their behavior patterns alter often, and a variety of situations or circumstances may give rise to delinquent conduct in them. However, the following list of reasons of juvenile delinquency may be of interest:

Adolescence Instability

One of the key determinants of an adolescent's behavior pattern is their biological, psychological, and societal makeup. Teenagers start to become more self-conscious about things like their pleasure, diet, play, and clothes at this age. And at this age, kids want independence and freedom, but sometimes, their parents, instructors, and elders give them every opportunity, which causes them to develop anti-social conduct. Biological changes, psychological factors, and antisocial conduct are therefore some of the causes of adolescent delinquency.

Disintegration of Family System

The major causes of rising adolescent delinquency rates are also the breakdown of the family structure

and weak parental supervision. In most situations, parental divorce, a lack of parental supervision, and a lack of care and love are the main causes of juvenile misbehavior.

Economic condition and Poverty

As a result of poverty and poor economic conditions, parents and guardians often fail to meet their children's needs, and at the same time, kids often expect their wants to be satisfied by their parents by any means necessary. Once their wants are satisfied, however, kids often turn to stealing from homes or other parents after their needs have been met. And as a consequence, stealing becomes a habit, which leads to widespread thievery.

Migration

Boys who are abandoned and penniless who go to slum regions come into touch with anti-social members of society who engage in illicit activities including prostitution, drug trafficking, and other contraband. The juveniles are really drawn to these activities, and they could participate in them.

Sex Indulgence

Children who have undergone sexual assault or any other kind of unwanted physical violence in infancy may grow to be unpleasant in thought and conduct. At this age, individuals can start living on the streets more often or desire to try out sex. Boys that experience too much sexual variation may get involved in crimes like abduction, rape, etc.

Modern Life Style

It is quite challenging for children and teenagers to adapt to the new lifestyles due to the society's and contemporary living's quick change. They struggle with cultural differences and struggle to distinguish between good and evil.

THE THEME OF JUVENILE: FROM THE PAST TO THE PRESENT

The Latin word "juvenis," which means "young," is the source of the English word "juvenile." 'Delinquency' is also formed from the words do (to go away from) and liquor (to go). The Latin verb "delinquere" literally means to emit in its most basic meaning. From the historical perspective, it was Pope Clement XI who first proposed the concept of "the improvement and training of squandering youth" under formal management in 1704. Elizabeth Fry and her friends decided to create separate facilities for young criminals, so they militarized their things. As a result, the Industrial Schools Act and the Reformatory Schools Act were passed into law in Britain. In the United States of America, the movement to create separate courts for minors was initially started in 1847. However, the Juveniles Offenders Act didn't allow for the creation of the first "Juvenile Court" until

1899 in Chicago. In 1905, England created its first juvenile court. The first audition laws were enacted in Massachusetts, the United States, in 1878, and in England, in 1887. At the second and sixth UN Congresses on crime prevention and the treatment of offenders, held in 1960 and 1980, respectively, the topic of juvenile delinquency was widely discussed. They came to the conclusion that a set of minimal criteria should be followed in the administration of juvenile justice.

It was therefore agreed that more care should be taken to avoid juvenile delinquency. In Beijing in 1985, the same topic—which looked at the Standard Minimum Rules for the International Administration of Juvenile Justice—was debated. Four categories of every child's civil, political, social, economic, and cultural rights are highlighted in the 1989 UN Convention on the Rights of the Child (CRC). The Convention offers a legal foundation for taking action to protect children's rights in society. When establishing the Juvenile Court Act in the US state of Illinois in 1899, the legislature used the phrase "juvenile justice" for the first time. The philosophy behind this rule was that juvenile criminals should not get the same harsh punishment and retaliation as adults, but rather should receive individualized care for both their safety and the protection of society. According to Reckless, "violation of the criminal code or pursuit of certain patterns of behavior disapproved for children and young adolescents" are both considered to be examples of juvenile delinquency. Thus, in the idea of juvenile delinquency, both age and the behavioral transgressions that are forbidden by the laws are significant.

Caldwell wants to use a broad definition of the word and encompasses any behaviors that lead to the state treating children indiscriminately as wards of the state. When used as a technical word rather than just a descriptive term, "juvenile delinquency" is wholly a legal creation.

However, in general, the phrase refers to a wide range of inappropriate conduct among kids and teenagers that society disapproves of and for which some kind of reprimand, punishment, or remedial action is warranted in the interest of the general public. The Apprentice Act was the first piece of juvenile justice law in India, and it mandated that juvenile offenders between the ages of 10 and 18 get vocational training as part of their rehabilitation. Similar laws, such as the Children's Act of 1960 and the Reformatory Schools Act of 1897, served as inspiration for this one. The Juvenile Justice Act of 1986 was the principal piece of legislation in India pertaining to juvenile justice. The Act created a framework for the protection, care, and rehabilitation of kids who are subject to the juvenile court system as well as a novel strategy for juvenile delinquency prevention and treatment. The 1960 Children Act was superseded by this statute. The majority of legislative provisions in India, which has a long

history of juvenile regulation, have largely adopted the British model. In the last part of the nineteenth century, India adopted the English concept of providing separate treatment for young criminals. According to chronology, the first legislation aimed at helping youngsters in need who needed to be taught for trade and industry was the Apprentices Act of 1850. Children under the age of seven are immune from criminal culpability under even draconian statutes like the Indian draconian Code, 1860 (Section 82). Additionally, it absolves from criminal culpability minors between the ages of seven and twelve who lack the cognitive development necessary to grasp the nature and repercussions of their actions (Section 83).

The Act (Section 363-A) also offers some protection to children from the malevolent intentions of adults. Except for the state of Jammu and Kashmir, the Juvenile Justice Act of 1986 was enforced consistently across India. Prior to the passage of this statute, each state had its own juvenile justice legislation, with variations in how juveniles were handled by various state legal systems. The Government of India made legal history in 2000 when it passed the Juvenile Justice (Care and Protection of Children) Act, which replaced the Juvenile Justice Act of 1986. In 2006, it was revised to better reflect the evolving demands of the sector and to conform to the UN Convention on the Rights of the Child. The next important piece of law governing the handling of juvenile offenders was the Reformatory School Act, which was passed in 1876 and subsequently amended in 1897. It gave local authorities the authority to create reformatory schools. According to the Act, the sentencing court might place boys in these facilities for a time frame of two to seven years, but they could not be maintained there after they turned eighteen. In addition, if appropriate job could be obtained, boys above the age of fourteen might be licensed out. Boys under the age of sixteen were covered by the Act in Bombay Presidency, whilst boys under the age of fifteen were covered elsewhere. The Code of Criminal Procedure of 1898 mandated the creation of a system of specialized treatment for juvenile offenders.

The Code also provided for the confinement of juvenile offenders up to the age of fifteen to reformatory institutions and allowed for probation for good conduct for those up to the age of twenty-one. Later Indian Children Acts passed by the Presidency and the provinces reflected this worldview. These regulations included provisions for the creation of a specialized system for identifying and treating children and adolescents. The Indian Jails Committee's recommendations during 1919–20 provided further incentive for legislative action in this direction. The Indian government was especially concerned with juvenile justice issues in the union territories that were under central administration during the post-independence era. This was the impetus for the 1960 Children Act. All of the UTs had the law fully in effect, but the states were allowed to adopt it as they lacked

juvenile law. At this point, juvenile justice in the nation was unequal and had a variety of standards, norms, and procedures, as would be anticipated. The Juvenile Justice Act of 1986 tried to address these issues. The legislation was in effect all throughout the nation. The Juvenile Justice Act of 2000 aims to harmonize and amend laws pertaining to young people who have run afoul of the law and children who need care and protection by ensuring that they receive the proper care, protection, and treatment in accordance with their developmental needs, by using child-friendly decision-making processes when making decisions that are in their best interests, and by providing for their rehabilitation through a variety of institutional mechanisms that have been put in place.

KINDS OF JUVENILE CRIME

The three main categories of youth criminal behavior are:

- (a) violent offenses including assault, rape, and murder that cause physical harm.
- (b) When a child threatens or uses physical force to take another person's property, they have committed a property crime.
- (c) Crimes involving drugs often include the use or selling of illicit drugs.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) papers identify these three categories of delinquency. Similar to this, Eaton and Polk categorised the following categories of juvenile offenses in "Measuring Delinquency":

- Minor violations which include minor traffic violation,
- Property violations,
- Major traffic violations which include automobile theft,
- Human addiction which include alcohol and drug addiction,
- Bodily harm which include homicide offences.

JUVENILE JUSTICE ACT, 1986

There has been some international influence on the local perspective on juvenile justice. Modifying its juvenile justice system in conformity with the principles outlined in the UN Standard Minimum Rules, India was the first nation to do so. The other goals included, of course, creating a standardized legal framework for juvenile justice, offering a unique strategy for the prevention and control of juvenile delinquency, outlining the systems and structures necessary to carry out juvenile justice work, establishing norms and standards for the management of juvenile justice, fostering appropriate links and coordination between the formal system

and nonprofit organizations, and establishing specific guidelines for the treatment of juvenile offenders.

JUVENILE JUSTICE ACT, 2000

The Care and Protection of Children Act, which was created in 2000, established juvenile justice. The Act encounters the following issues, including: Delays in the Act's different procedures, such as rulings by Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs), which results in a significant case backlog; Delay in investigating instances that resulted in youngsters languishing in homes for several years after committing minor offenses; an increase in the number of reports of child abuse in institutions; inadequate facilities, care, and rehabilitation strategies in homes, particularly those not registered under the Act, leading to issues such children committing the same offenses again, abusing children, and running away from home; adoption delays and disruptions because to inaccurate and incomplete processing and a lack of deadlines; lack of clarity on the roles, responsibilities, duties, and levels of accountability of the Juvenile Justice Boards and Child Welfare Committees; delayed rehabilitation plans and social investigation reports for all children, limited kid involvement in the trial procedure; Juvenile Justice Boards' lack of kid-friendly processes and the way they conduct board meetings in various districts' courts; The absence of any substantive provisions governing the actions that should be taken if a child who was arrested for allegedly committing an offense is later declared innocent; Lack of specific provisions requiring institutions to register under the Juvenile Justice Act, and states' inability to enforce registration due to the absence of any sanctions for non-compliance; No specific provisions for reporting abandoned or lost children to the appropriate authority to ensure their adequate care and protection under the Act; Lack of a checklist outlining the rehabilitation and reintegration services that institutions registered under this Act must offer; insufficient provisions to address crimes against children like ragging, selling children for adoption, and corporal punishment; rise in the number of heinous crimes committed by children; and absence of any specific provisions to address such children.

Act of 2014 Concerning Juvenile Justice (Care and Protection of Children): The Care and Protection of Children Act, 2014 is intended to replace the Juvenile Justice (Care and Protection of Children) Act, 2000, which currently regulates juvenile delinquency in India. If passed, it would allow juvenile offenders between the ages of 16 and 18 to be prosecuted as adults for major offenses. The Lok Sabha passed it overwhelmingly on May 7, 2015, and the Rajya Sabha is now considering it. The Juvenile Justice (Care and Protection of Children) Act of 2014 mandates that juvenile offenders between the ages of 16 and 18 must be referred to a Juvenile Justice Board, which is made up of psychologists and sociologists, to evaluate whether or not they should be prosecuted as adults. Changes to the law have been made to include

principles from the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption, which was signed in 1993.. The bill also attempts to make the adoption process for kids who have been abandoned, orphaned, or turned in simpler. The Juvenile Justice (Care and Protection of Children) Act of 2014 aims to protect and care for children without abusing or harassing them, to ensure that they are protected and cared for without being subjected to abuse, to ensure that they are quickly and effectively reintegrated into society in the event that they are found to have broken the law, and to streamline the central adoption agency.

JUVENILE JUSTICE ACT, 2015

The Act's most crucial provisions are as follows:

Prerogatives Of Juvenility

The "claim of juvenility" is the first and most contentious issue among the legal community and socialists. The Juvenile Justice Board will rule on the allegation of juvenility. Although the allegation of juvenility must be decided by the Board prior to court proceedings, it may be brought up in court at any time, even after the Board has resolved the case. Rule 12 of the Juvenile Justice Rules, 2007 was relevant to the Board's determination of the juvenility accusation. The court noted in *Kulai Ibrahim v. State of Coimbatore* that the accused has the right to bring up the issue of juvenility at any time throughout the trial, even after the case has been resolved, under Section 9 of the Juvenile Justice Act of 2015. The court in *Deoki Nandan Dayma v. State of Uttar Pradesh* ruled that a student's date of birth listed in their official school record was adequate evidence of their juvenile status. The Supreme Court held in *Satbir Singh & Others v. State of Haryana* that the Juvenile Justice Board must take into account the date of birth given in the school records while determining whether or not an accused is a juvenile. For purposes of a juvenile justice board trial, the court ruled in *Krishna Bhagwan v. State of Bihar* that the juvenile's age should be determined as of the date of the offense. The date to decide on a claim of juvenility shall be the day the accused is placed before the competent authorities, the Supreme Court said in *Arnit Das v. State of Bihar*, overturning its prior decision.

Juvenile Justice Board

A board will be established with a constitution for the purpose of investigating and hearing cases involving juveniles and the law. The Principal Magistrate, two social workers, one of whom should be a woman, and the Principal Magistrate shall make up the Board. According to the Act, the Board is not permitted to govern or conduct business from a normal court location. The Principal Magistrate's judgment shall be final. However, the Juvenile Justice Board's Special Procedure is:

- A complaint filed by the police or a citizen cannot be the basis for legal action.
- The hearing must be unstructured and completely private.
- Following detention, the offenders need to be put in an observation home.
- A lady magistrate will preside over the juvenile infraction trial.

A minor who has breached the law may be hauled before a particular Board member even when the Board is not in session.

JUVENILE JUSTICE SYSTEM BACKING CRIMES BY MINORS

Despite the existence of attentive child behavior, the number of juvenile criminals in India has dramatically increased over the last ten years. The latest National Crime Records Bureau reports that 1.2% of all crimes recorded to police in 2012 were perpetrated by adolescents. Between 2001 and 2011, there was an 85% rise in the number of minor crimes. According to NCRB, police in India accused 27,936 minors in 2012 for their participation in crimes including murder, rape, and rioting. According to CRB statistics, 66.6% of individuals who appeared before juvenile justice boards in 2012 were between the ages of 16 and 18. The number of children engaged in rape cases increased from 485 in 2002 to 1,175 in 2012, according to NCRB12 statistics. But the worrying reality is that criminal activity has also been declining. Even worse, young people are not just committing minor offenses but also horrible crimes like rape and murder. Due to the many limitations imposed by the law, dealing with young criminals becomes challenging for the police. Here are a few examples of criminal activity in various parts of our nation, including the murder of a 4-year-old kid by a 16-year-old Delhi teenager in October 2012. A 23-year-old medical student is raped in December 2012 by six males, one of whom is a minor. At Mumbai's Shakti Mills in August 2013, a 22-year-old photojournalist is sexually assaulted by five guys. Among the suspects, one is a minor. A 12-year-old girl is sexually assaulted in September 2013 by five guys between the ages of 12 and 16. In India, there have been calls to lower the maximum age for minors from 18 to 16, in light of the Delhi gang rape case. Child rights advocates countered that amending this provision of the law in reaction to public uproar over a small number of incidents would be a step backward. Eight public petitions urging the Supreme Court to determine that rape and murder committed by minors should be punished in accordance with adult laws and that the maximum age for juveniles be reduced to 16 were rejected in July by the court. However, a later petition, which the Supreme Court is presently debating, urges judges to take into account a juvenile offender's mental maturity rather than their age when determining whether or not to charge them with a particularly heinous offense. Juvenility is mostly a mental condition, not just a physical one. Additionally,

it has been noted that from 2015 to 2018, there was a rise in juvenile criminality of around 8.9%.

CONCLUSION

Juvenile delinquency is a huge burden on society, and given the current circumstances, it can be argued that the number of crimes committed by juveniles is rising and has to be reduced, according to the facts and numbers. Sometimes the crimes are horrific, like murder, rape, or robbery. Age cannot be the only factor used to determine whether to give the defendant a light sentence. After the Delhi gang rape in 2012, the government amended the legislation and added Sections 376-A and 376-E of the Indian Penal Code, which impose the death sentence on anyone found guilty of rape. Laws are created every day, and current laws are amended as well. The Juvenile Justice (Care and Protection of Children) Act of 2000, in contrast, simply prescribes a maximum penalty of three years without taking the nature of the crime into account. Allowing the condemned individuals to escape with such leniency is not acceptable. The government must take very serious measures to determine what types of offenses should be punished under this Act for the sake of society. Irrespective of the kind and gravity of the offense they committed, it is quite irrational to impose the same penalty on minor offenders in legal conflict. The crime of murder cannot be likened to a small-time theft. Extremely unusual crimes of this kind are in a class by themselves and shouldn't be compared to minor offenses. It has been observed that perpetrators of heinous crimes like rape and murder often escape punishment because of their youth. Therefore, a modification to the current law is unquestionably required. However, the Juvenile Justice Act cannot be properly implemented and amended to reduce juvenile crime alone. Civil society must be made aware of the sickness that exists in our dysfunctional society. Children who commit crimes are not really criminals; rather, they are the victims of society. If extra care is taken at home and at school, juvenile delinquency may be prevented at an early stage. In order to appropriately stimulate a child's intellect without labeling them as criminals or delinquents, it is the duty and obligation of parents at the family level of society and the function of the government at the national level. The more actions made and plans put into action, the more likely it is that society will be raised from the darker juvenile crimes to a brighter civilization free of juvenile delinquencies. A society devoid of crime, corruption, and poor health is thereby both feasible and achievable.

REFERENCES

1. Adenwalla, M. 2006. Child Protection and Juvenile Justice System for Juvenile in conflict with law. Mumbai, Childline India Foundation.

2. Bhattacharya, S K. 2000. Juvenile Justice: An Indian Scenario, New Delhi, Regency Publications.
3. Eaton JW, Polk K. 1961. Measuring Delinquency, Pittsburg Press, Pittsburg University.
4. Hansaria V, Jose PI. 2011. Juvenile Justice System, Delhi. Universal Law Publishing Company Pvt. Ltd.
5. Mehta, N. 2008. Child Protection and Juvenile Justice System, Mumbai, Childline India Foundation.
6. Ministry of Home Affairs. National Crime Records Bureau, New Delhi, Government of India, 2012.
7. Mousumi Dey 2014. 'Juvenile Justice in India' published in International Journal of Interdisciplinary and Multidisciplinary Studies (IJIMS), Vol 1, No.6, 64-70.
8. Sabnis, MS. 1996. Juvenile Justice and Juvenile Correction: Pride and Prudence. Bombay and New Delhi, Somaiya Publications Pvt. Ltd.
9. Srivastava SP. 1989. Juvenile Justice in India: Policy, Programme, and perspective, Delhi, Ajanta Publication.
10. The Times of India, Delhi, September 22, 2013 Vedackumchery, J. 1996. The Police and Delinquency in India, New Delhi, APH Publishing.
11. Vedkumari, The Juvenile Justice System in India, 2nd Edition, the Oxford University Press

Corresponding Author

Kushagra Pareek*

Research Scholar, Apex School of Law, Apex University, Jaipur (Rajasthan)-303002