



ISSN: 0975-833X

Available online at <http://www.journalcra.com>

INTERNATIONAL JOURNAL
OF CURRENT RESEARCH

International Journal of Current Research
Vol. 10, Issue, 09, pp.73445-73449, September, 2018

DOI: <https://doi.org/10.24941/ijcr.32177.09.2018>

RESEARCH ARTICLE

JUVENILE JUSTICE IN INDIA: A HISTORICAL OUTLINE

¹Dr. Ratnaprava Barik and ²Dr. Jayanta Kumar Dash

¹Lecturer in Political Science, Boudh Panchyat College, Boudh

²Lecturer in Political Science Astarang College Astarang, Puri

ARTICLE INFO

Article History:

Received 24th June, 2018

Received in revised form

12th July, 2018

Accepted 19th August, 2018

Published online 30th September, 2018

Key Words:

Juvenile Justice,
delinquency in India,
Legal framework, Claim of Juvenility.

ABSTRACT

A "Juvenile" or "Child" means a person who has not completed eighteen years of age. International Law interprets, a 'Child' means every human being below the age of 18 years. Today this is a universally accepted definition of a child which comes from the United Nations Convention on the Rights of the Child (UNCRC). Under the Indian Laws, Section 2 (k) of the Juvenile Justice Care and Protection of Children Act, 2000 defines "juvenile" or "Child" as a person who has not completed eighteenth year of age. The future of country depends on its children. So it is the duty and responsibility of everyone to ensure that the children have a safe environment to live in. But gradually it has been seen a huge dive in the rate of Juvenile crime in a developing country like India just like a disease in our society. This study tries to describe the evolution of Juvenile Justice Legislation, from British India to the present democratic India by focusing at the guidelines of Juvenile Justice Act, 1986, 2000, 2014 and 2015. In spite of the existence of that safety regulation for such children, there is a rise in the number of Juvenile criminals across the country, is a vital issue for the country. Whoever may be the person; whatever may be the situation; justice delayed means justice denied. India, as a land of immense diversities faces too many parameters of justice from its societal level to its judiciary. With verities of issues, it finds too many problems of juvenile justice in India however, the paper also tries to find out the causes and types of Juvenile Crimes in our society. Towards conclusion, some suggestions have been made for preventive measures of Juvenile Crimes by signifying the history of the juvenile justice in India.

Copyright © 2018, Ratnaprava Barik and Jayanta Kumar Dash. This is an open access article distributed under the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Citation: Dr. Ratnaprava Barik and Dr. Jayanta Kumar Dash, 2018. "Juvenile Justice in India: A Historical Outline", *International Journal of Current Research*, 10, (09), 73445-73449.

INTRODUCTION

A Child is the part of the society where he takes birth, grows lives and dies. When he grows up, he is being motivated by seeing the environment and social context around him. A "Juvenile" or "Child" means a person who has not completed eighteen years of age. According to International Law, a 'Child' means every human being below the age of 18 years. Today this is a universally accepted definition of a child which comes from the United Nations Convention on the Rights of the Child (UNCRC). Under the Indian Laws, Section 2 (k) of the Juvenile Justice Care and Protection of Children Act, 2000 defines "juvenile" or "Child" as a person who has not completed eighteenth year of age. The legal framework which defines justice for juveniles in the constitution of India supports and gives special approaches towards prevention, deterrence, avoidance and treatment of juvenile delinquency is the Juvenile Justice.

Roots of Juvenile Delinquency: Juvenile Delinquency is a behavioural aspect. Each and every person has different behavioural patterns so as in case with children also. The behaviour patterns develop in early childhood and at early stage and it is very difficult to identify any kind of behaviour. But as soon as , child grows up comes out to real world , behaviour patterns changes from time to time and many circumstances or situation may arose the delinquent behaviour in them . However, some of the causes of Juvenile Delinquency may be discussed as under:-

Adolescence Instability: – The biological, psychological and sociological are one of the important factors in the behaviour pattern of adolescent. At this stage, teenagers become more conscious about their appearances and fashions, enjoyment, food, play and etc. And at this age, they want freedom and they wanted to be independent but sometimes they are given any chances and opportunities by their parents, teachers and elders this leads to development of anti – social behaviour in them.

*Corresponding author: Dr. Ratnaprava Barik,
Lecturer in Political Science, Boudh Panchyat College, Boudh.

Thus, this anti – social behaviour, biological changes, psychological causes are the some of the reasons which is responsible for juvenile delinquency.

Disintegration of Family System: – Disintegration of family system and laxity in parental control is also the main cause of increasing rates of juvenile delinquency. In normal cases divorce of parents, lack of parental control, lack of love and affections are the major factors of juvenile delinquency.

Economic condition and Poverty: – Poverty and poor economic condition is also consider has major contributing factor of increasing juvenile crimes as result of poverty, parents or guardian fails to fulfil the needs of the child and at the same time children wants that their desires should be fulfilled by parents by hook or by crook and when their desires are met they start themselves indulging in stealing money from homes or any other parents. And this develop habitual tendency of stealing which results into theft at large scale.

Migration: – Migration of deserted and destitute juveniles' boys to slums areas brings them in contact with some anti – social elements of society that carries some illegal activities like prostitution, smuggling of drugs or narcotics etc. These sorts of activities attract the juvenile a lot and they may involve themselves in such activities.

Sex Indulgence: - The children those who have experienced sex assault or any other kind of unwanted physical assault in their early childhood may develop any kind of repulsiveness in their behaviour and mind. In this age they may become more vagrants or may want to have sex experience. Too much of sex variance may lead the boys towards the crime of kidnapping and rapes etc.

Modern Life Style: – The rapidly changing society patterns and modern living style, makes it very difficult for children and adolescents to adjust themselves to the new ways of lifestyle. They are confronted with problems of culture conflicts and are unable to differentiate between right and wrong.

The Theme: From the past to the present: The word 'Juvenile' has been derived from Latin term 'juvenis' meaning thereby Young. The term 'delinquency' has also been derived from the term do (away from) and liqueur (to leave). The Latin initiative "delinquere" translate as to emit in its original earliest sense. From the historical Back Ground, Pope Clement XI, who first introduced, in 1704, the idea of 'the improvement and training of squandering youth' in recognized management. Consequently Elizabeth Fry and her acquaintances militarized possessions to establish separate institutions for juvenile offenders. Consequently, in Britain Reformatory Schools Act and Industrial Schools Acts were brought on statute book. The move to established special courts for juveniles was initiated, for the first time, in 1847, in United States of America. However, the first 'Juvenile Court' could be established, only in 1899, in Chicago under Juveniles Offenders Act. In England the first Juvenile court was set up in 1905. The first audition law was enacted in the State of Massachusetts, USA, in 1878 and in England in 1887. The second and sixth UN Congress on Prevention of Crime and Treatment of Offenders in 1960 and 1980 discussed in detail the problem of Juvenile delinquency. They decided that there should be the standard Minimum Rules for the Administration of Juvenile Justice.

Subsequently, it was accepted that special attention should be given to prevent Juvenile delinquency. The same area was discussed at Beijing in 1985 which examined the Standard Minimum Rules for the International Administration of Juvenile Justice. In 1989, the UN Convention on Rights of the Child (CRC) draws attention to four sets of Civil, Political, Social, Economic and Cultural rights of every child. The Convention provides the legal basis for initiating action to ensure the rights of children in society. The term 'Juvenile justice' was used for the first time by the legislature by the state of Illinois, USA, in 1899, while passing the Juvenile Court Act. The approach under laying this law was that juvenile offenders should not be meted out the same punitive and retaliatory treatment as adults but rather given individual attention for their own protection as well as that of the society. Reckless stated that the term 'juvenile delinquency' applies to the "violation of criminal code or pursuit of certain patterns of behaviour disapproved of for children and young adolescents". Thus, both age and behavioural infractions prohibited in the statutes are important in the concept of juvenile delinquency.

Caldwell prefers to leave the term vague and includes within it all acts of children, which tend them to be pooled indiscriminately as wards of the state. 'Juvenile delinquency' when employed as a technical term rather than merely a descriptive phrase is entirely a legislative product....', But generally speaking, the term refer to a large variety of disapproved behaviour of children and adolescent which the society does not approve of, and for which some kind of admonishment, punishment or corrective measure is justified in the public interest. The first legislation on juvenile justice in India came in 1850 with the Apprentice Act which required that children between the ages of 10-18 convicted in courts to be provided vocational training as part of their rehabilitation process. This act was transplanted by the Reformatory Schools Act, 1897 and later came The Children Act of 1960. The Juvenile Justice Act, 1986 was the primary legal framework for juvenile justice in India. The Act provided for a special approach towards the prevention and treatment of juvenile delinquency and also provided a framework for the protection, treatment and rehabilitation of children in the purview of the juvenile justice system. The law replaced the Children Act, 1960. In India, which has a long history of Juvenile legislation, most statutory provisions have followed, more or less, the British pattern. The English idea of providing separate treatment for juvenile offenders was passed on to India in the last quarter of the nineteenth century. The Apprentices Act, 1850 is chronologically the first law meant to deal with the children in distress that is to be trained for trade and industry. Even the penal laws such as the Indian Penal Code, 1860 exempts children under the age of seven years from criminal responsibility (Section 82). It also exempts children between the age of seven to twelve years, who have not attained sufficient maturity of understanding to judge the nature and consequences of their conduct, from criminal responsibility (Section 83).

The Act also provides some protection to the children from the evil designs of the adults (Section 363-A). Juvenile Justice Act, 1986 was applied uniformly throughout India except state of Jammu and Kashmir. Prior to this law each state had its own enactment on juvenile justice with there being differences in the way juveniles were treated by different state legal systems. In a landmark step, the Government of India, repealing the juvenile justice Act 1986, introduced juvenile justice (Care and

Protection of Children) Act in 2000 and further, amended, it in 2006, so as to make it responsive to the emerging needs in the field of juvenile justice, and making it, compatible with UNCRC standards. The Reformatory School Act enacted in 1876 and later modified in 1897, was the next landmark legislation in the treatment of juvenile delinquents. It empowered local government to establish reformatory schools. Under the Act, the sentencing court could detain boys in such institutions for a period of two to seven years but they would not be kept in the reformatory schools after they had attained the age of eighteen years. There was also a provision to license out boys over fourteen years of age if suitable employment could be found. In Bombay Presidency, the Act was applicable to boys under sixteen years of age, while elsewhere it applied to boys under fifteen years of age. The Code of Criminal Procedure of 1898 provided specialized treatment for juvenile offenders.

The Code also envisaged the commitment of juvenile offenders' up-to the age of fifteen years to Reformatory Schools and provided probation for good conduct to offenders' up-to the age of twenty one. Subsequent Indian children Acts passed by the Presidencies and provinces maintained this thinking. These laws contained provisions for the establishment of a specialized mechanism for the identification of handling and treatment of children and juveniles. In this regard, recommendations of the Indian jails committee, 1919-20, gave an added impetus to legislative action. In the post-independence period; the Government of India was seized of the problems among others, of juvenile justice particularly in the centrally administered union territories. This is what led to the Children Act.1960. The law was in full force in all the UTs, but the states, not having juvenile legislation, were free to adopt it. As would be expected, at this stage, juvenile justice in the country was uneven and had varying standards, norms and practices. These problems were sought to be removed through the Juvenile Justice Act 1986. The law was in force throughout the country. The Juvenile Justice Act, 2000 aims at consolidating and amending laws relating to juveniles in conflict with law, and children in need of care and protection by providing proper care, protection and treatment by catering to their developmental needs, by adopting child friendly approach in adjudication and disposition of matters in the best interest of children, and for their rehabilitation through various institutional mechanisms established.

Kinds of Juvenile Crime: The three major kinds of juvenile crimes or delinquency are : (a) violent crimes which result in bodily injury, such as assault, rape, murder; (b) property crimes are committed when a juvenile uses force or threat of force to obtain the property of others and (c) Drug-related crimes involve the possession or sale of illegal narcotics. These three types of delinquency are listed in the documents of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). In the same way, Eaton and Polk in „Measuring Delinquency“ classified the following kinds of juvenile offences: i) Minor violations which include minor traffic violation, ii) Property violations, iii) Major traffic violations which include automobile theft, iv) Human addiction which include alcohol and drug addiction, v) Bodily harm which include homicide offences.

Juvenile Justice Act, 1986: In condition the indigenous thinking on Juvenile Justice has been keeping abreast with the global trends in this field.

With the adoption of the United Nations Standard Minimum Rules for the administration of the Juvenile Justice, India was the first country to evolve its system in the light of the principles enunciated therein. Of course, the other objectives were to lay down a uniform legal framework for Juvenile Justice, to provide towards a specialised approach towards the prevention and control of juvenile delinquency, to spell out the machinery and infrastructure for Juvenile Justice operations, to establish norms and standards for the administration of Juvenile Justice, to develop appropriate linkages and coordination between the formal system and voluntary agencies and to constitute special offences in relation to juveniles and to prescribe punishment given.

Juvenile Justice Act, 2000: Juvenile Justice was the Care and Protection of Children Act, formulated in the year 2000. The Act experiences the following subjects such as ; Delays in various processes under the Act, such as decisions by Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs), leading to high pendency of cases; Delay in inquiry of cases leading to children languishing in Homes for years altogether for committing petty offences; Increase in reported incidents of abuse of children in institutions; Inadequate facilities, quality of care and rehabilitation measures in Homes, especially those that are not registered under the Act, resulting in problems such as children repeating offences, abuse of children and runaway children; Disruption of adoption and delays in adoption due to faulty and incomplete processing and lack of timelines; Lack of clarity regarding roles, responsibilities, functions and accountability of Child Welfare Committees and Juvenile Justice Boards; Limited participation of the child in the trial process, delays in rehabilitation plan and social investigation report for every child; Lack of child-friendly procedures by Juvenile Justice Boards and conduct of Board sittings in Courts in many districts; Lack of any substantive provision regarding orders to be passed if a child apprehended for allegedly committing an offence was found innocent; No specific provisions for reporting of abandoned or lost children to appropriate authority in order to ensure their adequate care and protection under the Act. ; Non-registration of institutions under the Juvenile Justice Act and inability of the states to enforce registration due to lack of any penal provisions for non-compliance; Lack of any check-list of rehabilitation and re-integration services to be provided by institutions registered under this Act; Inadequate provisions to counter offences against children such as corporal punishment, sale of children for adoption purposes, ragging etc.; and Increase in heinous offences committed by children and lack of any specific provisions to deal with such children.

Juvenile Justice (Care and Protection of Children) Act, 2014: The Care and Protection of Children Act, 2014 aims to replace existing the Indian juvenile delinquency law i.e. Juvenile Justice (Care and Protection of Children) Act, 2000, so that juvenile criminals in the age group of 16–18 can be tried as adults for serious crimes. It was passed on 7 May 2015 by the Lok Sabha unanimously and it is now pending in the Rajya Sabha. Juvenile Justice (Care and Protection of Children) Act, 2014 will allow a Juvenile Justice Board, which would include psychologists and sociologists, to decide whether a juvenile criminal in the age group of 16–18 should be tried as an adult or not. The bill introduced concepts from the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption, 1993 which were missing in the previous act.

The bill also seeks to make the adoption process of orphaned, abandoned and surrendered children more streamlined. However, the Objective of Juvenile Justice (Care and Protection of Children) Act, 2014 are: – To ensure that every child enjoys his Rights; To stay on protection and care of children without facing harassment or abuse; To ensure swiftly and productively reintegrated into the society in case he was found to be in conflict with law; To streamlining the central adoption agency.

Juvenile Justice Act, 2015

The most important subjects of the Act are as under:-

Prerogatives of Juvenility: The very first and most debatable question among the legal fraternity and socialists is the “claim of juvenility”. The claim of Juvenility is to be decided by Juvenile Justice Board. The Board has to decide the claim of juvenility before the court proceedings but the claim of juvenility can be raised before the court at any stage of proceedings and even after the disposal of the matter by the Board. The Board had to consider Rule 12 of the Juvenile Justice Rules, 2007 in order to determine the claim of juvenility. In case of *Kulailbrahim v. State of Coimbatore*, it was observed by the Court that accused has right to raise the question of juvenility at any point of time during trial or even after the disposal of the case under the Section 9 of Juvenile Justice Act, 2015. In case of *Deoki Nandan Dayma v. State of Uttar Pradesh* the court held that entry in the register of school mentioning the date of birth of student is admissible evidence in determining the age of juvenile or to show that whether the accused is juvenile or child. Again in the case of *Satbir Singh & others v. State of Haryana*, Supreme Court again reiterated that for the purpose of determination whether accused is juvenile or not, the date of birth which is recorded in the school records shall be taken into consideration by Juvenile Justice Board. In case of *Krishna Bhagwan v. State of Bihar* the court stated that for the purpose of trial under Juvenile Justice Board, the relevant date for the considering the age of juvenile should be on which the offence has been committed. But later in case of *Arnit Das v. State of Bihar*, the Supreme Court overruled its previous decision and held that date to decide in claim of juvenility should be the date on which the accused is brought before the competent authority.

Juvenile Justice Board: There shall be a constitution of Board for the purpose of inquiry and hearing in the matters of juvenile in conflict with law. The Board shall consist of Principal Magistrate and two social workers, among whom one should be a woman. The Act provides that under no circumstances the Board can regulate and operate from regular court premises. The decision taken by the Principal Magistrate shall be final. However, the Special Procedure of Juvenile Justice Board is:

- The proceedings cannot be initiated on a complaint registered by the police or citizen
- The hearing must be informal and should be strictly confidential.
- The offenders should be kept under Observation Home after detention.
- The trial of juvenile in conflict with law shall be conducted by Lady Magistrate.

A child in conflict with law may be produced before an individual member of the Board, when Board is not sitting.

Juvenile Justice System backing crimes by minors: Notwithstanding, the presence of careful child acts, the last decade has seen a huge leap in the rate of juvenile offenders in India. According to the latest National Crime Records Bureau, crimes committed by juveniles constituted 1.2% of the total crimes reported to police in 2012. Crimes committed by juveniles have increased by 85% between 2001 and 2011. In 2012, police in India charged 27,936 juveniles for alleged involvement in crimes including murder, rape and rioting, according to NCRB. Among those who face Juvenile Justice Boards in 2012, two third (66.6%) were aged between 16 and 18 years, according to CRB data. According to the NCRB12 data, 485 juveniles were involved in rape cases in 2002 and the figure swelled to 1,175 in 2012. But the alarming facts that the delinquent activities have also been plummeting. Worse still, youngsters, are not just committing petty crimes, but rather heinous crimes like rape and murder. It gets tough for the police to deal with juvenile offenders because the law possesses a lot of restrictions. Some glimpses of delinquent activities in different corners of our country are mentioned hereunder: October, 2012: A 16 year old Delhi boy killed a 4 year old boy. Dec., 2012: A 23 year old medical student is raped by six men, one of whom is juvenile. August, 2013: A 22 year old photojournalist is raped by five men at Shakti Mills in Mumbai.

One of the suspects is under 18. September, 2013: A 12 year old girl is raped by five boys” ages between 12-16 years. There were demands from some in India to reduce the upper age limit for juveniles from 18 to 16, in light of the Delhi gang rape case. However, child rights activists said that changing this section of the law in response to a public outcry over few cases, would be a regressive step. In July, the Supreme Court dismissed eight petitions brought by the public asking Supreme Court to rule that crimes of rape and murder committed by juveniles should be punished under adult laws and that the upper age limit for juveniles be lowered to 16. But a subsequent petition-currently being considered by the Supreme Court, asks judges to consider the mental maturity of the juvenile delinquents instead of his or her age in cases where a young person is accused of involvement in a particularly serious crime. Juvenility is mainly a state of mind, and not only a state of body. It is also recorded that approximately 8.9% of Juvenile crime is increased during the year 2015 to 2018.

Conclusion

From the above, it may be stated that, Juvenile delinquency is a tremendous burden on society and keeping in mind the present situation, it can be said that the number of crimes being committed by the juveniles is increasing and is to be checked. The crimes are sometimes of heinous nature like murder, rape, robbery. Age must not be a sole criterion to award a lenient punishment to the offender. Laws are been made every new day ; amendments are made to existing laws after the Delhi gang rape in 2012 Government made some amendments and inserted Section 376A and Section 376E of the Indian Penal Code which provides imposition of death penalty on those who are convicted of rape. In contrast to this, Juvenile Justice (Care and Protection of Children) Act, 2000 only imposes only a maximum sentence of 3 years without the reference to the nature committed. It is not justified to let the convicted persons to get off with such leniency.

Many serious steps has to be taken by the government to grade the nature of offences should be redeemed under this Act for the benefit of the society. It seems rather unreasonable to impose the same punishment to the juveniles in the conflict with law, irrespective of the nature and seriousness of the crime committed by them. A petty theft cannot be compared with the offence of murdering someone. Heinous crimes of rare nature are a class of their own and hence should not be considered akin to petty crimes. It is noticed that, serious crimes like rape and murders also go unpunished with the offender wearing the grab of juvenility. So, an amendment in the existing act is definitely necessary. But juvenile crimes cannot be stopped only through the proper implementation and amendments of Juvenile Justice Act. It is vital to make aware of civil society about this disease that exists in our sick society. Juveniles involved in crimes are not criminals, in fact, they are victims of society.

Juvenile delinquency can be stopped at an early stage, provided special care is taken both at home and in school. It is the duty and responsibility of the Parents at the family level of the society and the role of government at the national level properly in encouragement the mind of a child, without cataloguing them as criminals or delinquents. The more the steps taken and the more the plans being implemented, the greater the chances to upbringing the society from the darker juvenile crimes to a brighter society free from the juvenile delinquencies. After that a crime free, corruptions free and a healthy society is possible and practicable.

REFERENCES

- Adenwalla, M. 2006. Child Protection and Juvenile Justice System for Juvenile in conflict with law. Mumbai, Childline India Foundation.
- Bhattacharya, S K. 2000. Juvenile Justice: An Indian Scenario, New Delhi, Regency Publications.
- Eaton JW, Polk K. 1961. Measuring Delinquency, Pittsburg Press, Pittsburg University.
- Hansaria V, Jose PI. 2011. Juvenile Justice System, Delhi. Universal Law Publishing Company Pvt. Ltd.
- Mehta, N. 2008. Child Protection and Juvenile Justice System, Mumbai, Childline India Foundation.
- Ministry of Home Affairs. National Crime Records Bureau, New Delhi, Government of India, 2012.
- Mousumi Dey 2014. 'Juvenile Justice in India' published in International Journal of Interdisciplinary and Multidisciplinary Studies (IJIMS), Vol 1, No.6, 64-70. Available at online at <http://www.ijims.com> , Assessed on 03.09.2018
- Sabnis, MS. 1996. Juvenile Justice and Juvenile Correction: Pride and Prudence. Bombay and New Delhi, Somaiya Publications Pvt. Ltd..
- Srivastava SP. 1989. Juvenile Justice in India: Policy, Programme, and perspective, Delhi, Ajanta Publication.
- The Times of India, Delhi, September 22, 2013
- Vedackumchery, J. 1996. The Police and Delinquency in India, New Delhi, APH Publishing.
- Vedkumari, the juvenile justice system in India, 2nd edition, the oxford university press
