



Revisiting the Juvenile Justice System in India: A bird's eye-view

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Introduction

A youngster is guiltless upon entering the world and will most likely grow up to be a good individual on the off chance that they are supported with cherishing care and concern. Kids' improvement on all levels — physical, mental, moral, and extraterrestrial — sets them in a situation to understand their most prominent potential. Be that as it may, unfriendly circumstances, a dismissal for necessities, deficient planning, and different abuses could make a small child a crook. In view areas of strength for of good examples, youngsters appear to major areas of strength for have and detest focuses as well too evolved explanations since the beginning. These characteristics additionally make youngsters more helpless to extortionists' plans, remembering those that prey for, offer to, and exchange with casualties.

With a Public Strategy for Kids expressing that youngsters are a public asset, around 40% of India's populace is under 30. Notwithstanding this, the main part of India's childhood keep on living in destitution. With its confirmation of the UN Show on the Privileges of the Kid, India has focused on ensuring that its youngsters utilize every one of the open doors it offers. There has been an ascent in the quantity of violations committed by and against kids in India. Somewhere in the range of 2003 and 2004, there was a 97.9% ascent in adolescent offenses, with an expansion in the quantity of youngsters captured for offenses including cheating, robbery, and pyromania.

“About two centuries ago, Adolphe Quetelet, the eminent Belgium social statistician observed that adolescent, particularly young males are prone to crime, disorder and delinquency because of their childish impulsiveness or adolescent conflict. To quote him, the propensity to crime is at its maximum at the age when strength and passions have reached their height, yet when reason has not acquired sufficient control to master their combined influence. Since a Nation's future depends upon young generation, the children deserve compassion and bestowal of the best care to protect this burgeoning human resource. A child is borne innocent and if nourished with tender care and attention, he or she will blossom with faculties' physical moral spiritual and mental, into the person of stature and excellence. On the other hand, noxious

surroundings, neglect of basic needs, bad company and other abuses and temptations would spoil the child and likely to turn him a delinquent.”¹

Juvenile Delinquency

Juvenile misconduct is the point at which a young person starts to overstep the law. Unfortunate behavior is characterized as a solitary, horrendous demonstration by an individual younger than eighteen; at the end of the day, by a minor. Juvenile mischief is referenced in passing as "wrongdoing." When an individual arrives at development, their lawbreaker or distant way of behaving turns into a genuine offense. Thus, youngsters and teens might see mischief by youths as unlawful. Inappropriateness has been a significant issue since before time began. It happens when somebody deliberately disregards the law by insubordination, prohibition, or wildness. A kid might be viewed as guileless, yet on the off chance that they are presented to a troublesome climate, absence of essential necessities, or improper design, they might form into a crook. As a rule, a break of the law requires the motivation behind disregarding it, though this isn't generally the situation. "Carelessness of the law is no prohibition" implies that regardless of whether somebody violates a regulation they have hardly any insight into, they could in any case be indicted. Young people are in this manner treated diversely inside the value structure whenever they are allowed the opportunity to be approved for their legitimate obliviousness. Any demonstration of mischief or prohibition against the public that the state tries to stop is viewed as a bad behavior and is deserving of a fine, detainment, or even passing whenever saw as liable. Except if an offense is plainly proclaimed as such by public regulation, it doesn't exist. Certain infractions, like robbery or criminal injury, might be viewed as normal misfortunes, driving the culpable party to look for change.

“The term “Juvenile” is used for a person, who is under 18 years of age. The JJ Act, 2015 defines a ‘juvenile’ as ‘a child who is under of 18 years of age’.”² “The juvenile’s age was again increased to 18 years by the Juvenile Justice (Care and Protection of Children) Act, 2000. According to this Act, ‘Juvenile’ means ‘a person. under the age of 18 years’.”³ In essence, the Act was passed to voice discontent with the Juvenile Justice Act of 1986.

“In this particular situation, the following proposals were made: -

- To follow and bind along with the UNCRC;
- To recommended age limit of 18 years for both boys and girls.”⁴

“In the case of **Pratap Singh v State of Jharkhand** the Supreme Court was considered with a query as to “whether the date of occurrence will be the reckoning date for determining the age of the alleged offenders as juvenile offender or the date when he is produced in the court?” Court decided that “the reckoning date for the determination of the age of the is the date of the offence and not the date when he is produced before authority or in the court.”⁵

² S. 2(35), Juvenile Justice (Care and Protection of Children) Act, 2015.

³ S. 2(k), Juvenile Justice (Care and Protection of Children) Act, 2000.

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⁵ Pratap Singh vs. State of Jharkhand, (2005) 3 SCC 551; (2005) SCC (Cri.) 742.

“**Shyam Narayan Singh vs. State of Bihar**, Patna High Court recognized that the age of the juvenile accused has been determined on the basis of age specified in the evidence which is produced before Magistrate, and that evidence was not reclaimed by any person.”⁶

“Juvenile Delinquency includes two kinds of conducts:

- a) Status Offences: An act legal for adult may be forbidden for child as these acts are considered to be delicate and unsuitable for their health.
- b) Delinquent Offences: These kinds of conducts are violation of legal enactments which applies to adults. Delinquent Offences involve murder, rape, assault, harassment, abuse, theft, criminal breach of trust, damage to property, etc.”⁷

Demonstration of wrongdoing might include: Running away from home without the consent of guardians, Habitual conduct past the control of guardians, Spending time inactively past cutoff points, Use of indecent dialects, wandering about rail streets, roads commercial centers, visiting betting focus, committing sexual offenses, Shop-lifting, Stealing and so on.

A difficult issue like juvenile wrongdoing can't be cured just by government and administrative endeavors. In India, a large portion of the other states' kid security regulations have not been satisfactorily carried out. A portion of these Acts are defective by their own doing. Official mechanical assembly isn't being utilized satisfactorily to resolve this issue. To find a viable answer for the issue of delinquent way of behaving of an adolescent, government and confidential elements should cooperate with genuineness and reality.

Causes of Juvenile Delinquency:

a) Individual factors

An individual's late lead may be brought about by different conditions. A youth with unfortunate mind who has not gotten sufficient tutoring is more inclined to take part in delinquent way of behaving. Different factors that might be available incorporate indiscreet way of behaving, wild indignation, and a failure to concede want. Individual attributes incorporate psychological wellness issues. A person's state of mind essentially affects his activities in the public eye. Subsequently, these components can prompt an adolescent's commitment to perilous, damaging, and unlawful activities.

b) Family Factors

Family issues could incorporate intermittent family quarrels, disregard and misuse, or the absence of adequate parental direction. Kids who witness their folks' negligence for the law and social assumptions for the country might gain something very similar. Moreover, youths with the most unfortunate bonds to their family will quite often be about the very teenagers that participate in hazardous way of behaving.

Historical Background of Juvenile Justice System India:

⁶ Shyam Narayan Singh vs. State of Bihar, (1993) Cri LJ 772 (Patna).

⁷ Juvenile Justice System in India and Critical Analysis of the Juvenile Justice (Protection and Care of Children) Act, 2000 with Juvenile Justice (Protection and Care of Children) Act, 2014 (Amendment), 2 Journal of Law Mantra 1, 2, available at <http://journal.lawmantra.co.in/wpcontent/uploads/2015/08/73.pdf>, last seen on 12/05/2020

The Juvenile Justice Act of 1960 was active the nation over before the Juvenile Justice Act of 1986, which was embraced by Government to offer consideration, security, treatment, improvement, and rebuilding to deserted or defiant youths. Accordingly, the Juvenile Justice Act of 2000 was passed in India. Afterward, on December 30, 2000, the Juvenile Justice (Care and Protection of Children) Act, 2000, turned into the key regulative starting point for adolescent equity in India.

This resolution was reexamined again in 2006 and 2010. Following the Delhi assault (sixteenth December 2012), this regulation attracted far and wide analysis for its incapability managing violations in which teenagers are embroiled in terrible wrongdoings like assault and murder yet are not arraigned. The Government then sanctioned the Juvenile Justice Bill, 2014, which turned into the Juvenile Justice Act, 2015. It went into effect on January 15, 2016. "Section 2(a) of the Act of 1986 classified a juvenile as a male that has not achieved the age of 16 years and a girl who has not gained the age of 18 years."⁸

JUVENILE JUSTICE SYSTEM IN INTERNATIONAL PERSPECTIVE:

"The juvenile owing to their early stage of human development require particular care and assistance with regard to physical, mental and social development and require legal protection in condition of peace, freedom dignity and security, but the international recognition of the rights of the Juvenile children came very late. Though some people think that the law has gone too far from time to time, social scientists pause to ponder over the direction in which their discipline is moving."⁹

In Caracas, Venezuela, in 1980, the sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders laid forward five basic guidelines that it acknowledged should be addressed in a lot of rules to be taken on for the association of juvenile value to save the fundamental normal freedoms of young people in issues with the law. "The rules could then serve as a model for united national Member Stated in the treatment of juvenile offenders. The congress recommended that the Committee crime Prevention and Control, a standing committee of the Economic and Social Counsel, be requested to develop such rules."¹⁰

According to UN principles and objectives, children's liberties need extraordinary security and a stable environment. The United Nations General Assembly voted to adopt an Optional Protocol to the Convention on the Rights of the Child as a consequence, believing that children's rights should be protected in accordance with the UN Charter and common freedoms laws even in the midst of war or an unfamiliar occupation. May 16, 2000, as Part of the 26th International Red Cross Red Crescent Conference in December 2000, A Child's Right to Participate in Armed Wars: Gatherings for conflict settlement should, among other things, take all possible efforts to avoid increasing Keep kids under the age of eighteen out of demonstrations that are organised. This entails raising the enrollment minimum age and restricting the number of youngsters who may really register if they are assisting a person under the age of eighteen who is in danger.

STATUTORY PROVISIONS IN INDIA:

⁸ S. 2(a), Juvenile Justice (Care and Protection of Children) Act, 2000

⁹ P.M. Bakshi, "inaugural address", KLJ 1981 Vol. 7, p.1

¹⁰ <https://www.ncjrs.gov>.visited on 18/06/2020

After autonomy, many laws dealing to children in need of care and protection were presented to Parliament for discussion and approval. In any case, not every one of them passed. This was the primary legislation relating to teenage equality enacted, after autonomy. The Juvenile Justice Act of 1986, sometimes known as the Children's Act, had a few specific provisions. Proposals for teenage equity Juvenile equality is a framework that considers the safety and well-being of children. The Juvenile Justice (Children) Act of 2000 was supported, which was an extensive piece of regulation on adolescent equity. The Juvenile Justice (Care and Protection of Children) Act 2015 is the latest regulation.

1. Indian Constitution

- a) **Article 14** – “This Article of the Indian constitution provides for right to equality that is the state shall not deny any person equality before law.”¹¹
- b) **Article 15** – “This Article of the Indian constitution provides that there shall be no discrimination on the Indian citizens on the basis of any category.”¹²
- c) **Article 21(a)** – “This Article talks about the right provided to every citizen (age 6 – 14 yrs) a right to free education that is to be provided by the state.”¹³
- d) **Article 24** – “This Article mentions about the right of the citizens of this country against any kind of exploitation against them. This Article states that no citizen (6-14yrs) shall be employed into factories or other sets of employment.”¹⁴
- e) **Article 39** – “This Article provides for a right to adequate means of livelihood that the state shall ensure for every citizen of the country.”¹⁵

2. Indian Penal Code, 1860

- a) **Section 82** – “An act done by any person below the age of 7 years will not be counted as an offence.”¹⁶
- b) **Section 83** – “An act done by any person (7-12yrs) will not be Counted as an offence if he has not maturity to understand the gravity and consequences of his own act.”¹⁷

3. Criminal Procedure Code, 1973

- a) **Section 27** – “This section provides that the trial of a juvenile offender can only be done by a chief judicial magistrate as he has been authorized by this section.”¹⁸

An overview of Juvenile Justice (Care and Protection of Children) Act 2000:

¹¹ Article 14. of the Constitution of India.

¹² Article 15. of the Constitution of India.

¹³ Article 21(A). of the Constitution of India.

¹⁴ Article 24 of the Constitution of India.

¹⁵ Article 39 of the Constitution of India.

¹⁶ Section 82 of Indian Penal Code 1860.

¹⁷ Section 83 of Indian Penal Code 1860.

¹⁸ Section 27 of Criminal Procedure Code, 1973

“The new Act referred to as the Juvenile Justice (care and protection of children) Act, 2000 is an improvement over the law which was replaced by passing this act. the article of the legislation is to amend the law regarding juvenile in conflict with law and youngsters in need of care and protection, by providing for correct care, protection and treatment and by creating to their developmental needs. this can be being done by adopting a toddler friendly approach within the adjudication and disposition of matter within the best interest of kids and for his or her ultimate rehabilitation through various institutions established under this law.”¹⁹

All throughout India, the Juvenile Justice Act of 1986 was consistently applied, with the exception of the state of Jammu & Kashmir. Before this goal was adopted, each state had its own set of regulations for young adults, with differences in the primary ways that state laws addressed youth. The Juvenile Justice (Care and Protection of Children) Act, which replaced the Juvenile Justice Act of 1986, was a major move taken by the Indian government in 2000. Later, in 2006, this legislation was resurrected to better reflect the ideals of young people and the rules of the UNCRC. The Juvenile Justice Act of 2000 seeks to enact and amend laws pertaining to minors who are engaged in court proceedings and those who need protection and care. It does this by giving them the genuine care, protection, and treatment they need by catering to their developmental requirements; by using an approach to problem-solving that is adolescent-friendly and prioritises the needs of the children; and by reestablishing the children via a variety of institutional components. “The approach of the Supreme Court towards juvenile has been very liberal. it had been way back in 1977, when Supreme Court in a very case held that penalty of death shouldn't be imposed on someone below 18 years old. Borstal Acts and Reformatory Schools Acts had the kids guilty of offence punishable with death or immurement in their focus.”²⁰

Important Judgements:

Om Prakash v State of Rajasthan

“In this case it absolutely was held by Supreme Court that in an exceedingly situation when the varsity record itself isn't free from ambiguity and conclusively prove the minority of the accused, medical opinion can't be allowed to be overlooked or treated to be of no consequence. during this context the statement of the medical jurist who conducted the ossification test of the accused and opined before the court that the accused was 19 years old is of significance since it specifically states that the accused wasn't a juvenile on the date of commission of the offence. The statement of Radiologist also can't be overlooked since he opined that on the premise of x-ray films, the age of the accused is above 18 years and below 20 years. Thus, in a very circumstance where the judicature itself couldn't gain a conclusive finding regarding the age of the accused, the opinion of the medical examiners supported x-ray and ossification test will need to be precedence over the shaky evidence supported school records and a plea of circumstantial inference.”²¹

Trikambhai Kavabhai vs. State of Gujarat

¹⁹ R. N. Chaudhary, *Law Relating to Juvenile Justice in India*, 4th edition, Orient Publishing Company, New Delhi, 2015, p. 21

²⁰ *Raisul v State of UP*, AIR 1977 (SC) 1822

²¹ *Om prakash v State of Rajasthan* 2012 (77) ACC 654 (SC).

“In this case accused was charge-sheeted under section 302 of IPC. he failed to produce any documentary evidence to prove his date of birth. Prosecution produced school leaving certificate within which date of birth of accused was mentioned by accused, s father considering which accused age was above 18 years at the time of offence. As per courts order ossification test was also conducted as per medical certificate on ossification test and radiological examination accused was found 18 to twenty years at the time of offence. tribunal held that Order declaring accused wasn't proper because of error by Court in giving good thing about variation of 2to 3 years to accused.”²²

Chandan Kumar Gandhi vs. State of Bihar

“In this case Patna state court held that matter of juvenility needs to be inquired into by the Juvenile Justice Board, as per provisions of Juvenile Justice (Care & Protection of Children) Act, 2000 and also the Bihar and Central Rules framed there under. this might require an inquiry to be conducted by the Board first. The board would be required to urge the matriculation certificate examined by the authorities of the Bihar School Examination Board all told particulars. If, that's found to be correct, then no further evidence would be required just in case of Manish Kumar. The Board would be required to note the college authorities who have granted the transfer certificate in respect of Chandan Kumar and direct them to supply authentic original admission register and other records of the college within which date of birth was first recorded in respect of that appellant. Then considering of these aspects and therefore the written report which is of a Board constituted pursuant to the orders of the Chief Judicial Magistrate, Muzaffarpur. The board would come to an independent finding during this regards without being prejudiced by the other order or orders of any authority or court, because it is their independent jurisdiction within the matter.”²³

Conclusion:

India is home to most of the world's most youthful populace. Each kid in the nation is allowed sure freedoms under the Indian Constitution, which additionally allows the public authority to give uniquely planned instructive materials to them. The state is explicitly expected under the Mandate Standards of State Strategy to safeguard youngsters younger than eight from misuse and to guarantee that they approach workplaces and entryways to encourage their improvement in a free and decent climate. The obligation of safeguarding kids from misuse and monetary and moral relinquishment is on the state¹. The segment profile of Indian youngsters demonstrates that the greater part of them are devastated and battle to earn enough to get by, eat appropriately, and go with significant choices.

In India, there could be as of now not any worry about youngsters creating negative propensities. Adolescents' tricky or refined methods of controlling their activities make teen rowdiness an issue. The JJ Demonstration of 2015 supplanted the previous conventions for grouping and recognizing grievous violations. The "Juvenile Equity (Care and Security of Youngsters) Act, 2015" was acquainted accordingly with claims that the governing body couldn't deal with the conditions encompassing the Delhi Assault (Nirbhaya's Case). The Demonstration indicates that an individual should be 16 years of age to carry out serious violations like homicide or attack. It additionally sets out the systems for such offenses. For India's young grown-up esteem framework, the Adolescent Equity (Care and Insurance of Kids) Act, 2015 is an on a very basic level useful turn of events. The JJ Act, 2015's targets, scope, strategies, definitions, and core

²² Trikambhai Kavabhai vs. State of Gujarat 2013Cri LJ 1386 (Guj)

²³ Chandan Kumar Gandhi vs. State of Bihar 2010 Cri LJ 1814 (Pat)

values — all of which take a positive position towards adolescent guilty parties — don't, as indicated by the survey referenced above, comprise its crucial parts.

The state has conceded that it has a commitment to give youngsters thoughts and certifications. It was guessed that the adolescent court framework and government help projects would furnish delinquent and oppressed youth with this sort of consideration and affirmation. Studies, in any case, exhibit that the adolescent equity framework is imperfect and that no functional fixes exist.

“It is sensible to anticipate from these strategy deductions that the state knows about the quantity of Juveniles and kids' to whom it tries to guarantee appropriate consideration and assurance, and that the plan contained in the regulation is fit for releasing its commitments under the regulation. Sadly however, even the evaluation date doesn't give the quantity of kids under eighteen years old. While there are a few raw numbers accessible for the classification of 'adolescents', there are just gauges for the majority of the subcategories of youngsters included inside the domain of the JJ (C&P) Act and those, as well, contrast from one another significantly to be of any assistance in arranging.”²⁴

Suggestions:

1. The place of the inquiry need to be kid-friendly. Since the child criminal is still young, the processes need to be relaxed.
2. The child's maturity level and the consequences of the crime must be considered at the time of the procedure.
3. The child's files and records need to be maintained appropriately.
4. For JJB membership, one social worker with a legal degree is necessary.
5. They ought to provide the child, young person, and the child's parents with the best care available and regular guidance.

²⁴ Ved Kumari, *The Juvenile Justice System in India From Welfare to Rights*, Second Edition, Oxford University Press, New Delhi, London, 2010, p. 294