

CHILD AND JUVENILE UNDER JUVENILE JUSTICE SYSTEM: ISSUES & CHALLENGES IN INDIA

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ABSTRACT

Children are the nation's greatest asset and its future citizens; as such, they must be nurtured in accordance with the Indian Constitution's mandate and safeguarded from all legal threats. The Indian constitution has given children several rights in an effort to promote the goal of a wholesome society. Specific provisions have been outlined in chapters on fundamental rights and directive principles. These included rights to education, culture, religion, and freedom of thought and conscience, as well as rights to protection against various forms of exploitation and abuse. The purpose of this research paper is to examine how juvenile delinquency has changed in India and how the juvenile justice system has evolved with its many facets and philosophies. The social fabric of any civilization is impacted by the serious problem of juvenile misbehavior. What are the many causes and explanations behind young people's delinquent behavior? Provisions of the Constitution regarding juvenile offenders are included in this article. The aim of this essay is to raise people's knowledge of delinquency because it is a significant topic that needs to be discussed. One developing nation where teenage misconduct is commonplace is India. Around the world, a large number of youth participate in formal adult equity frameworks whereas India has 431,053,833 populations under 18 years of age in year 2023. These children often struggle financially, so when they are left behind and in need, they are more likely to become victims of human trafficking or into prostitutes. Protracted court processes for arrests, however, can ruin an adolescent's whole adolescence for children who already have legal troubles. As a result, many of them have little chance of recovering and reintegrating into society. India's strategy of dealing with juvenile criminals has seen major modifications throughout the years. An outline of the historical evolution of India's juvenile justice system is given in this paper, including everything from its early unofficial procedures to the creation of official legal frameworks. The study looks at what causes juvenile delinquency and assesses how well the current legal and rehabilitation programs work to lower young crime. The report concludes by making recommendations for interventions and policy changes to address the problems associated with juvenile delinquency in India.

Keywords: Juvenile delinquency, constitutional provisions, theoretical aspects, trends, rights, care & protection.

1. INTRODUCTION

Juveniles are often defined as child under the age of eighteen who have been accused or proved to have committed an offense under the Indian Penal Code or any other legislation that stipulates a penalty. These under age beings are becoming more and more common in India; they require care and security. An examination of the NCRB's statistics on crimes

perpetrated by Juveniles indicates a significant pattern from 2013 to 2022. Over the course of this time period, there was a decline in recorded crimes from 43,506 to 30,555, resulting in a reduction of 12,951 offenses. This reduction represents nearly 30% over a span of 10 years.. Juvenile justice was defined more precisely by the Juvenile Justice (Care and Protection of Children) Act of 2000. Additionally mentioned in its international agreements, but left unclear, is the United Nations Convention on the Rights of the Child (1989).

Individually neglected and juvenile delinquent youth are shown in the history of juvenile justice laws in India. The lines between neglected juveniles and juvenile offenders were kept firmly drawn for a span of 80 years, from 1920 to 2000. Adult and juvenile offenders were not covered by different laws when it came to the administration of justice. Due to their underdeveloped minds, youngsters are unable to comprehend the implications of their actions, as was also discovered via experience. Juvenile offenders were given their own court system, after the development of the doctrine that separated them from adult offenders. India adopted a similar approach, passing many Children Acts that provided comprehensive legal protection for both groups of children. Both of the kid groups are covered under the current Juvenile Justice (Care and Protection of Children) Act 2015 and the now-repeated Juvenile Justice Act 1986. One of the main obstacles to the successful execution of India's juvenile justice system seems to be the inclusion of both categories of minors in a single piece of law. In order to allow juveniles who commit major crimes between the ages of 16 and 18 to be prosecuted as adults, the Indian Parliament passed the Juvenile Justice (Care and Protection of Children) Act, 2015. Given that the Intelligence Quotient is determined by mental talent rather than age, not everyone may be affected by this. And what if there's a young crime leader present? What if a weak young child succumbed to peer pressure and committed a crime? To improve the criminal justice system, it is crucial to do compassionate study on teens with the aid of criminology and restorative justice.

1.1 DEFINITION OF CHILD UNDER VARIOUS LAWS AND CONVENTIONS

“The Child Labour (Prohibition and Regulation) Act, 1986: According to the Act, the individuals who are 14 years or below are considered to be children.

The Factories Act of 1948 and the Plantation Labour Act, 1951: According to this Act, an individual who has not attained the age of 15 years is considered as a child. An individual who is between 15-18 years of age is considered as an adolescent. The adolescents can work in factories for utmost 4 and half hours a day, till they are declared medically fit.

The Motor Transport Workers Act, 1961 and Beedi and Cigar Workers (Conditions of Employment) Act 1966: According to these Acts, any individual below 14 years of age is considered as a child.

The Merchant Shipping Act, 1958 and Apprentices Act, 1961: These Acts have put forth some limitations on employment of children below 14 years of age.

The Mines Act, 1952: As per this Act, individuals who have completed 18 years of age are considered as adults, thus making it clear that those who have not attained this age will be considered as children.

Prohibition of Child Marriage Act, 2006: As per this Act, the age of majority is set at 21 years for the males and 18 years for the females.

The Indian Majority Act, 1875 and Guardians and Wards Act of 1890: According to both the Acts, the majority is reached on completion of 18 years of age.

The Hindu Minority and Guardianship Act of 1956 and the Hindu Adoption and Maintenance Act of 1956: This Act is in line with personal laws of Muslim, Christian and Zoroastrian that also supports the 18 years of age as the upper bracket for attaining majority.

The Juvenile Justice Act of 1986: The Act considers boys below 16 years and girls below 18 years of age as children. The Juvenile Justice (Care and Protection of Children) Act, 2004”

However, in the modified JJ Act of 2000, the age for defining a child was raised to 18 years for both the genders. Many professionals consider and are in support of considered 18 years as the legal definition of a child in all matters, because of its universal acceptance.

Child defined by United Nations Convention on the Rights of the Child (UNCRC) is universally accepted today. According to UNCRC: “Child is every human being below age of eighteen years unless under the law applicable to the child, majority is attained earlier.”

According to Convention on the Rights of Child (1990): “The legal definition of child is interchangeable with minor and varies according to each country’s own individual interpretation,” this Convention defines a child as “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier”.

1.2 UNDER THE JUVENILE JUSTICE ACT OF 2015 AND OTHER STATUTES, THE TERMS “CHILD” AND “JUVENILE” HAVE DIFFERENT DEFINITIONS

- CHILD

When someone is under the age of eighteen and not yet mature enough to understand right from wrong, they are often referred to as a "child". The concept of "doli in Capex," or knowing that something is illegal, is understood in most modern-day nations. According to the criminal code, only children between the ages of seven and twelve may be found guilty of a crime, even if the crime they committed was serious and they were aware of the consequences of their actions.

Under sub-section 12 of Section 2 of The Juvenile (Care and Protection) Act, 2015, an individual is considered a "child" if they are under the age of eighteen. The two categories that the Act separates "child" into are as follows:

- “child in conflict with law”
- “child in need of care and protection”

- JUVENILE

A juvenile is defined as a youngster who has not attained the legal age at which, in accordance with national laws, he may be tried for unlawful activity as an adult. Anybody under the age of eighteen who has engaged with the legal system because they have committed or are accused of committing a crime is considered a "juvenile in conflict with the law".

2. JUVENILE DELINQUENCY- NATURE

Criminal or antisocial behavior by a youngster that breaks the law is referred to as juvenile delinquency. Any individual who exhibits behavior that might pose a risk to society while they are below the legal minimum age threshold is considered a juvenile delinquent. Juvenile delinquents are often defined as children who have committed a crime between the ages of ten and seventeen. Repetition of the offense and age-specific offense are the two primary types of guilty persons. Reiterated those who commit crimes on a regular basis are considered "life-course consistent wrongdoers" or wrongdoers. At the pre-adult stage of life, these young

criminals starts committing crimes or suggesting other lone behaviors. Repeat offenders go on with their aggressive or unlawful behavior even after they have reached adulthood.

People who, due to their age, have broken the law Offenders claim that adolescent reprobate conduct starts during this time. Unlike recurrent wrongdoers, the age-specific guilty party's acts terminate before the minor reaches adulthood.

An adolescent's early habits are often a reliable predictor of the kind of criminal they will become in adulthood. When they reach maturity, age-specific offenders cease their delinquent behavior, but they often face more severe psychiatric issues, drug abuse, and financial difficulties than those who never engaged in delinquent behavior throughout their childhood.

According to the accused in *Gopinath Ghosh v. State of West Bengal*, he was much older than the minimum age required by law for minors. In this instance, the court took more than a formal step to guarantee that the juvenile status defense would not be claimed for the first time and that the accused's age could be established.

It forwarded the case to the judge of that session. Using this strategy, the Supreme Court upheld *Rajinder Chandra v. State of Chhattisgarh* and went on to say that the degree of probability, not proof beyond a reasonable doubt, is the standard of proof for establishing age.

When a child between the ages of 10 and 17 commits a crime, it is considered juvenile delinquency. When someone behaves in a way that is not consistent with their social norms, it is deemed that they are engaging in delinquent conduct. A kid may be classified as a juvenile offender if they act in a way that might endanger them directly or the society at large. Male and female offenders under the age of eighteen are classified as juveniles.

A young kid who is incorrigible or consistently disobedient is considered a juvenile delinquent. These illicit operations are expanding quickly in the recent past for a variety of reasons. Young children under the age of eighteen have an increased chance of developing delinquent behaviors in challenging situations. Their surroundings are dominated by issues such as parental drunkenness, poverty, family disintegration, overcrowding, violent domestic situations, the growing prevalence of HIV/AIDS, or parent deaths during armed conflicts. To further clarify, the reasons listed below are what cause youngsters to engage in delinquent behavior. Juvenile delinquency refers to a broad range of child and adolescent behaviors that are not accepted by society and for which reprimand, punishment, or preventative and remedial actions are warranted in the public interest. When kids and teenagers don't follow through on the responsibilities that society places on them, it's called juvenile delinquency. According to "Walter Reckless (1957)", the phrase "juvenile delinquency" describes breaking the law and acting in a way that is unsuitable for children and young adults.

The most important aspect of criminology, as has been clear in recent years, is the study of juvenile delinquency. Major ramifications have been attached to juvenile delinquent behavior, a sign of an ill society. Deviant conduct is a widespread problem that is causing havoc and harms that is becoming concerning in scope.

2.1 AFFECTING ASPECTS OF JUVENILE DELINQUANCY

2.1.1 Abuse inside the home:

One of the primary reasons of delinquency is the frequency of violence in households. A lot of people often react aggressively to other people when they see violence in their homes. Adolescents who witness or experience violent conduct in others are more likely to use action

as a way to vent their frustrations and concerns. It is easy for them to get into problems because of their tendency toward a "don't care" mentality.

2.1.2 Inside Their Social Circles, Violence Occurs:

If a youngster lives in a violent area, they are more prone to engage in delinquent conduct. Many refer to this as a form of street survival since the young kid gets into trouble in order to stay away from other dangerous individuals or members of the local gang. Eliminating the youngster from environments such as these frequently reduces their propensity for misbehaving.

2.1.3 Social and economic factors:

Juvenile crime is more common in impoverished communities. All communities experience delinquent conduct, but those where children believe they must commit crimes in order to prosper are considered to have higher rates of it. Theft and associated crimes are not just minor transgressions but can also be caused by a lack of resources. The only true way to address this issue is to make sure that children in these neighborhoods have access to the resources they require and understand that they don't have to commit crimes in order to achieve in life.

2.1.4 Lack of ethical direction:

The involvement of adults or parents is essential in preventing delinquency. There is a greater chance that a youngster will behave in a way that is not delinquent when a parent or other adult engages with them and models suitable and improper behavior. A child has to have a strong relationship with a decent adult who can teach them the difference between right and wrong and establish boundaries for conduct.

2.1.5 Inadequate academic requirements:

A child's likelihood of committing crimes may also be influenced by the educational environment in which they are raised. Schools that are overcrowded and underfunded usually lack structure and organization. Because of the ongoing stress and disruption they experience in these environments, children respond more defensively. It has been discovered that parental participation in their children's extracurricular and academic activities significantly reduces the likelihood of delinquent conduct. A child is more likely to achieve academically and socially when an adult is actively involved in their lives because they know that the adult will be there for them.

2.1.6 Circle of Social Relations:

Peer groups are unofficial associations of young people who are similar in age and often develop on their own in places where children may easily meet and interact. These peers typically exhibit common habits among young individuals and their pals, such drinking alcohol and smoking, gambling and smoking, and stealing.

2.1.7 Mental and Emotional Disorders:

Apart from sadness, other mental health conditions can cause misbehavior in children. Criminal acts such as assault and vandalism may also be incited by children and teenagers with behavioral issues, which lead them to behave aggressively and destructively. The social environment of the adolescent, heredity, brain traumas, and deformities are some of the factors that contribute to these disorders in turn. In addition to depression and attention deficit hyperactivity disorder (ADHD), both disorders can and often do coexist with other ailments. Adolescents suffering from mental and emotional issues may also have to deal with other

known variables that lead to juvenile delinquency, such as an unfriendly school environment. It's possible that the youngster is receiving special education services that are needed but that his or her parent is reluctant to support the school's attempts to supply them. The youngster may be more likely to misbehave or try with drugs if they are left alone.

2.1.8 Impoverishment:

One of the main causes of juvenile delinquency is the fact that a considerable portion of young reprobates come from low-income homes. Even while bright students may not be aware of adolescent delinquency, the bulk of criminals come from the lowest socioeconomic categories. They report offenses individually rather than collectively. Due to hunger and other basic requirements not being satisfied, poverty usually forces both guardians to spend a very lengthy period away from their homes. We're going to ignore the children. Children who come into contact with gangsters, whether on purpose or accidentally, run the risk of being criminally inclined. This occurs in impoverished areas and in places where the majority of people work.

2.1.9 Social Networks:

Adolescent aggression is encouraged by social media, which increases the rate of juvenile criminality. Social media posts including violent photos and videos may incite in young children attitudes and sentiments that might lead to aggression or hubris. The duration of these effects varies.

2.1.10 Inaccurate Reproduction:

For many children nowadays, the only kind of entertainment accessible is on their mobile phones, which greatly fuels antisocial and juvenile criminality. Through the internet, social media, and other channels, people are exposed to a variety of criminal news trends. Teenagers are so engrossed on the internet that offenses that don't get enough attention tend to get repeated. Children may respond to pornographic information on social media in different ways depending on their age. Studies have also revealed a strong direct influence of TV series and movies on the behavior of youth.

2.1.11 Psychological Conditions:

Criminals are among the mentally ill individuals who require both therapy and punishment. Psychopaths may influence criminal conduct, according to certain neurologists and psychiatrists. Children that are psychopathic typically come from homes where affection, love, and authority are almost nonexistent. Among additional traits of the child in question are extreme sexual immorality, extreme backwardness, rage, harshness, stubbornness, suspicion, self-centeredness, loneliness, and a strong desire for revenge.

2.1.12 Psychological Unpredictability:

A significant contributing factor to crime is emotional instability. Adverse reactions, emotional instability, severe punishment, a sense of inadequacy and inferiority, and a lack of love and affection are common symptoms of unbalanced personalities in children. The youngster is encouraged to engage in illicit activity by such a style of thinking.

3. THEORIES OF JUVENILE DELINQUENCY

There has always been debate among criminologists, psychologists, and even sociologists on the definition of juvenile delinquency. A multitude of people with both divergent and congruent perspectives have been focusing on the real cause, which may be explained by a variety of hypotheses, from ancient to modern.

Philosophers have produced a number of theories to help explain these tendencies in juvenile delinquency. Some have connected poor socioeconomic status with aspects of gender, ethnicity, and poverty; others have related childhood trauma, especially physical or sexual abuse, with these factors. Adolescent criminality has also been allowed to flourish due in large part to peer pressure. Adolescent delinquency can be explained by socially grounded theories from both a traditional and a modern or advanced standpoint.

3.1 Institutional Anomie Theory / Strain:

Robert Merton created the strain hypothesis in the 1940s. According to this theory, children act out because they are unable to meet their basic needs. After failing to attain their goals by lawful means, they resort to illicit techniques. Even while most young people have similar ideas, ambitions, and objectives, the strain hypothesis shows that not all of them have the same abilities to accomplish these things, such being successful in their careers or personal lives. Merton's theory of strain was thoroughly explained by Robert Agnew (1992) in order to apply it to explain the many forms of delinquent conduct.

Agnew listed three sources of stress:

- According to Merton, anomie is the tension that results from not achieving goals that are highly valued.
- When someone's highly valued incentives are taken away, stress results. A few instances are breaking up with your partner, divorcing or splitting from your parents, losing a loved one, or moving away from your friends to attend a new school or location.
- Strain can be caused by unfavorable stimuli such child abuse and neglect, physical punishment, conflict between family members and peers, challenging living conditions, failing academically, and being victimized by the criminal justice system.

3.2 Subculture theory:

The subculture theory is an additional explanation for adolescent misbehavior. A subculture is a notion that Albert Cohen coined in 1955, combining some of his ideas. Based on the concept that contemporary civilizations have created an environment that encourages exclusion, this theory holds that isolated groups of individuals have standards and values that differ from those of the larger community. Studies on criminal justice have linked these activities to the introduction of antisocial behaviors that constitute crimes. Cohen believes that adolescent criminality is a social issue. Minors steal because it is their subculture's norm and because it is not socially acceptable.

3.3 Differential Opportunity Theory:

Unfair opportunities give rise to worries about juvenile offenders. The question of why individuals succeed or accomplish in life was addressed by Lloyd Ohlin and Richard Cloward. For what reason do some people break certain laws but not others? Numerous ideas have been proposed as a result of the long period of inquiry into these issues by criminologists. On the other hand, Cloward and Ohlin contend that because of the stress associated with scarcity, opportunities have a significant role in adolescent misbehavior. A juvenile's crime may also be caused by factors unrelated to their socioeconomic circumstances, according to the unequal opportunity theory. With more opportunities for success, young people are less likely to seek help from subculture organizations.

According to Cloward and Ohlin's view, a young person may be intellectually gifted yet unable to get gainful employment or a respectable profession. It is not societal factors that cause the adolescent to act out, but rather their inability to obtain a paying employment. In contrast to the subculture idea, the differential opportunity hypothesis suggests that other variables may also have an impact on a young person's criminal conduct. A young individual who has more options will be more driven to achieve rather than fit in with a certain subculture. Richard Cloward and Lloyd Ohlin developed this hypothesis in 1960.

4. RATIFICATION OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD (CRC) IN 1992

The UN board of trustees under the Convention on the Rights of the Child observed in 2000 that "the Committee is particularly concerned about the short duration of criminal obligation under the Penal Code, which is set at seven years, and the possibility of attempting young men somewhere in the range of 16 and 18 years as adults."

Subsequently, the Juvenile Justice (Care and Protection of Children) Act of 2000 was approved by the Indian Parliament, "remembering the models recommended in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), and all other significant global instruments." As of right now, the seven-year statute of limitations remains in effect.

5. THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT ACT, 2006 AND 2011.

The States instructed the Amendment Act to improve the utilization and arrangement of the Act's provisions in its true spirit and essence.

These guidelines, known as the Juvenile Justice (Care and Protection of Children) Rules, 2007, were distributed in the Official Gazette and went into effect on that date. They will be modified until the relevant state government explicitly defines guidelines for the state that have an impact on how the J.J. Act is used.

The Act's Section 68 suggests various areas where the Rules may be applied to improve the Act's execution, specifically with regard to the executive of the homes norms to be adhered to, the roles and responsibilities of the Juvenile Justice Functionaries, the systems and operations of the competent specialists, the Juvenile Justice Fund's mission, and the recovery tool.

In addition, the "Delhi Gang Rape Case of 2012" has put pressure on lawmakers to draft legislation. The Act's true drawback was that it had poorly thought out legal procedures, and India's failed adolescent framework also played a major role in preventing teenage misbehavior. Soon after, The Juvenile Justice (Care and Protection) Act, 2015 replaced the protest.

5.1 THE JUVENILE JUSTICE (CARE AND PROTECTION) ACT, 2015.

Legally considering and assuring the basic needs of juveniles in conflict with the law, who require care and security, including providing food, is essential in order to bring together the laws pertaining to these youths, as is improving their treatment and social reconciliation efforts. When resolving and transferring disputes, it is important to keep children's best interests in mind and employ a child-friendly manner. The rehabilitation of juvenile criminals via different child care centers and homes is another major emphasis of the show. An essential part of the Act deals with the claim of juvenile status.

It all starts with the "case of immaturity"—the most divisive issue between the legal team and the communists. Choosing the juvenile case is the responsibility of the Juvenile Justice Board. The court has the option to consider the immature case at any stage of the proceedings, even after the Board has moved it. But, while closely monitoring the judicial procedures, the Board must choose the adolescent case. The Board had to evaluate Rule 12 of the Juvenile Justice Rules, 2007 in order to determine the problem involving teenagers.

The court concluded in *Kulai Ibrahim v. State of Coimbatore* that the accused had the right to raise the immaturity defense at any point during the preliminary phase of the case or even after it was transferred in accordance with Section 9 of the Juvenile Justice Act, 2015.

In addition, the court determined that a statement in the school record mentioning the understudy's birth date is sufficient evidence to determine the accuser's age of adolescence or to establish whether they are a child or an adolescent based on the case of *Deoki Nandan Dayma v. Province of Uttar Pradesh*.

5.2 THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT ACT, 2021

An analysis of this Act:

- I. According to the Juvenile Justice (Care and Protection of Children) Act, 2015, the court must issue a reception request before a child can be taken into custody. According to the Amendment Act of 2021, local justice will issue these receiving orders instead of the court.
- II. Sixty-nine appropriation lawsuits are pending in various courts at the moment. The Amended Act swaps the power to make appropriation requests to the location justice for the capacity to streamline selection procedures. One thing to think about is if the pendency factor justifies shifting the pile to the realm of justice.
- III. The legal process of adopting a kid creates an unbreakable, legally binding bond between the child and their new parents. This would allow the question of whether it is appropriate for the region officer to have the authority to issue receiving orders instead of a common court to be addressed.

This is about how, in spite of everything, the juvenile framework is operating in the Indian context; yet, some adjustments are required.

The Female Infanticide Prevention Act 1870 was a deliberate administrative measure used in British India to prevent the murder of newborn females. Section 7 of this Act stated that it was initially only applicable for the areas of Oudh, the North-Western Provinces, and Punjab; however, the Act authorized the Governor General to extend the legislation to any other British Raj location or territory at his discretion.

The Vaccination Act 1880 (to protect the lives and health of newborns) was applicable in some districts and cantonments in Uttar Pradesh, Punjab until November 1, 1956, the Central Provinces, Assam, Delhi, and Ajmer, as they may be contacted in the manner outlined below.

Existence of child labor and the need for special provisions for them was recognized by **the Factories Act 1881**. Working children were initially extended the protection of the law by the 1881 Factories Act. The provincial leaders were likely familiar with handling child abuse in their own country during the current uprising. It is also anticipated that the Factories Act was primarily implemented in order to slow down the rapidly expanding Indian material industry, but there were also charitable considerations to protect children. The Indian Factories Act of 1881 allowed for a daily maximum of nine hours of work and established a

foundation period of seven years for laborers on manufacturing lines. Additionally, it banned young experts' progressive employment in two production facilities at the same time and accommodated at least four times in a month. Children employed in tiny manufacturing firms were not given any security since the demonstration was applicable to production lines with at least 100 specialists.

The Guardianship and Wards Act 1890 (for their continued care and protection). According to this demonstration, a minor or kid is any person who has not reached the age of eighteen. A court or delegated specialist may appoint one guardian for a child or remove another from their position as guardian. An application is required for every order to be passed. Applications should include every piece of information that can be found regarding the child, the guardian, and the reasons for guardianship. The court will schedule a time for the consultation after it grants the application. Before making a decision, the court will hear evidence. Multiple guardians may be appointed to a minor and his belongings.

Seeking for development Madras took the lead by passing the first Children Act in 1920.

Despite the fact that India was then a British territory, the juvenile courts set up there used the US paternal model and did not automatically allow for the attendance of a lawyer.

All states that passed Children Acts before 1949, including the Madras Children Act, established a children's court to handle cases involving neglected and delinquent children. The act also stipulated that these children would be placed on probation and kept in remand homes and accredited schools rather than in jail, unless their offense was so serious and their character so twisted as to warrant it. However, the measures used to define a child varied.

6. JUVENILE JUSTICE SYSTEM AND ITS DELINQUENCY IN INDIA

The development of laws pertaining to the juvenile justice system has been greatly influenced by international policies and concepts regarding juvenile delinquency. A number of generally acknowledged guidelines are adhered to in order to safeguard juveniles, with an emphasis on giving them attention and creating a welcoming atmosphere. Certain international instruments also offer a better foundation for the system's growth using these principles. As a result, this chapter contains all of these relevant concepts and tools, and a thorough examination of the subject offers a wealth of information about it.

Every order has precise phrasing that clarifies a few basic concepts. Understanding such concepts and language is very appealing for understanding the subject and analyzing identification with that particular control. When it comes down to it, the Criminal Justice System and the structure of adolescent equity in particular have some basic concepts and language that are extremely important to understand for the sake of this research.

6.1 RISK FACTORS AND INDICATORS ASSOCIATED WITH JUVENILE DELINQUENCY

Many children become overtly adolescent offenders from an early age, usually between the ages of 6 and 12. Many adolescent activities during the pre-high school and early childhood years may be viewed as typical kid behavior as they test boundaries and strive to become more self-aware. Nevertheless, there are several red flags that indicate a youngster could be headed in the wrong direction. Common indicators of adolescent misbehavior that might start in preschool include the following:

- Unbalanced or unequal growth of vital abilities, including accent and speech.
- Repeated breaking of the rules.

- Serious physical assaults committed against instructors or other pupils.
- Studies reveal that a young child's chance of becoming a prominent adolescent reprobate is influenced by a variety of life circumstances. The most well-known risk factors for misbehavior among teenagers are as follows, while there are many more, and they vary:
- Authoritarian parenting is characterized by the use of severe punishments and a refusal to provide any other justification for them than "because I said so".
- The social association—which often happens when parents leave kids alone—can cause a youngster to act negatively in his social group.
- It is possible to categorize permissive parenting, which does not impose consequences for misconduct, into two subtypes: (1) inattentive parenting, which entails not monitoring a child's behavior, and (2) indulgent parenting, which involves allowing misbehavior.

6.2 CURRENT PATTERNS AND ADVANCEMENTS

The Juvenile Justice Acts of 2000, 1986, 2015 and 2021 were created after the Children Act of 1960, which established a standard policy that safeguarded a juvenile's rights and interests while considering the child's care, treatment, rehabilitation, and general development. This legislation was designed to provide global solutions to the problem of juvenile justice.

The Indian government must suggest new, more stringent regulations for the nation's juvenile system in light of current global events and the increase in young people becoming involved in criminal activity. Thus, in 1986, 2000, 2015, and most recently in 2021, the Parliament passed the Juvenile Justice Act.

Former Indian Chief Justice Justice V.K. Krishna Iyer once stated that as children are the fathers of men, we had to have a criminal code since neglecting them will hold us accountable for a number of misdeeds and blunders.

Over the past several decades, there has been an upsurge in the number of crimes committed by kids under the age of sixteen. The economics, parental care, illiteracy, and the environment in which children are raised might all be contributing causes to the increased crime rate. These are a few of the basic justifications. The worst part of it all is that children these days, particularly those in the 5–7 age range, are used as props for criminal activities since their brains are still so naive and easily manipulated.

The horrific "Nirbhaya Delhi Gang Rape Case" that happened on December 16, 2012, shocked the whole country and provoked a number of conversations among lefties and the legal community. The accused, which was only six months shy of turning eighteen, was the primary motivator and topic of discussion. Because the accused was involved in the horrific crime of rape, the Indian Parliament was obliged to amend the country's laws, resulting in the creation of a new law known as "Juvenile Justice (Care and Protection), 2015".

The establishment of the Act replaced the prior juvenile regulations and resulted in several incredibly important changes. The idea that juveniles between the ages of 16 and 18 should face adult charges is one of the significant changes.

6.3 JUDICIAL APPROACH TOWARDS THE JUVENILE SYSTEM

Ashwani Kumar Saxena Vs State of M.P. 2013-1 L.W. (Cri.) 190 After the Sessions Judge and High Court upheld CJM's decision that the appellant was older than 18 on the date of the

occurrence, the appellant's appeal was denied. The directives in question gave rise to the appeal before the Supreme Court. The court finds that the C.J.M. Court, the First Additional Sessions Judge's Court, and the High Court's handling of the juvenility allegation is unacceptable. Section 7A of the J.J. Act, when read in conjunction with Rule 12, has been misunderstood by lower courts. When the event occurred, the appellant was a juvenile - After the Sessions Court overturned the sentence, the High Court ordered the documents to be given to the J.J. Board so that they might be used to determine a suitable sentencing in line with the requirements of the Act, 2000. The appeal was permitted.

Shilpa Mittal vs State Of Nct Of Delhi on 9 January, 2020 - According to Section 304 of the Indian Penal Code, 1860, the juvenile is charged with a crime that is punishable. The juvenile was a minor (between 16 and 18 years old) when the crime was committed. The Children's Court shot down the case. Following this, the Minor and his mother visited the Delhi High Court..

Upendra Pradhan vs State Of Orissa on 28 April, 2015 - The appellant was found guilty of a crime under Section 302/34 of the Indian Penal Code ("IPC") and given a life sentence by the High Court in the aforementioned decision, which upheld the government's appeal.

6.4 TRENDS AND OBSERVATIONS ABOUT JUVENILE DELINQUENTS

- 1) Since girls commit crimes less frequently than women do, they are less likely to do so than men. Up until 1987, 6–7% of females were involved in juvenile criminality. With the definition of children being revised to include only girls between the ages of 16 and 18, this jumped dramatically to 13.4% in 1988. Utilizing statistics from prior years, we can determine the percentage of girls in a certain age group and come up with 13.1%, which is less than the 13.4% in 1958. Consequently, according on the most recent data available (from 1994), there are typically 4.5 arrests of boys for every girl.
- 2) Criminal activity among 12- to 16-year-olds is most prevalent in juvenile delinquency. 66.9% of robberies involving victims between the ages of 12 and 16 occurred over the typical five-year period between 1989 and 1994, according to the 1988 amendment of the definition of child abuse. Those between the ages of 18 and 21 (adolescent group) accounted for the bulk of terrorists (71%) and were followed by those between the ages of 16 and 18 (15%), 12 and 16 (9%), and 7 and 12 (5%). Age group ratings have since been updated. Ages 7 to 12 make up around 21.5% of the population, while 16 to 18 make up 14.3%.
- 3) City dwellers are more likely to witness child maltreatment than people in rural regions. The number of juvenile offenders is higher in small towns and cities than in large cities (more than 10 lakh inhabitants). More than three-quarters (74.7%) of the 1,362 cases filed under the Indian Penal Code in 1994 came from seven of the country's twenty-three major cities: Delhi (16.6%), Bangalore (12.5%), Ahmedabad (14%), Pune (10.7%). Hyderabad (5.2%) and Nagpur (5.6%) are the two biggest cities in India.
- 4) Children who reside with their parents or other adult guardians are at a higher risk of committing crimes against minors. In 1994, less than half (20.2%) of offenders and their guardians, less than one-tenth (8.8%), and less than three-quarters (71%) of criminals were found to be living with their parents at the time of their arrest. This highlights how crucial the home environment is in encouraging adolescent criminality.

- 5) The primary reason for crime is a lack of knowledge. In 1994, twenty-one percent of students completed middle and high school, forty-six percent finished elementary school, and just five percent finished high school. It was found that 29.9% of the youngsters, or less than one in three, were illiterate. As a result, most factions originate from countries with low levels of historical knowledge and education.

6.5 REAL-LIFE EXAMPLES OF JUVENILE DELINQUENCY

- **Nirbhaya gang-rape case:** A well-known historic case that had an impact on the Indian legal system was the murderous attack and gang rape that occurred in Delhi in 2012. Here, a youngster was one of the rapists.
- **PUBG killer:** Recent criminal cases worldwide have been linked together with PUBG as a common element. A fifteen-year-old boy allegedly used scissors to attack his elder brother and hit his head against the wall after being told to stop playing the game.
- **40 rupees tussle:** A boy killed his brother for forty rupees! A 14-year-old kid from Aurangabad admitted to murdering his sister the day after they argued over money.
- **The killing of a toddler:** A one-and-a-half-year-old infant was killed by an eight-year-old by submerging him in a small water tank as payback. The younger sibling of the child who was accused of falling took ownership of the incident. As payback, he drowned the youngster.

7. THE EVOLUTION OF INDIA'S JUVENILE JUSTICE SYSTEM

7.1 Period Prior To 1773

Every personal law, including Hindu and Muslim laws, has provisions for child maintenance. Parental and family duty was primarily focused on raising the children. Charity has always been seen by Hindu and Muslim law as a noble endeavor, one that addresses the needs of the underprivileged and those left behind in the event of a family breakdown. In light of the fact that Muslim law requires someone to care for an abandoned infant who is on the verge of death. Adolescent offenders were not specifically mentioned in any of the legislation. Nevertheless, careful examination of the Hedaya and the Manusmriti reveals that distinct sets of punishments for certain offenses are prescribed for children.

7.2 Period From 1773-1840

The first laws pertaining to children were introduced between 1773 and 1840, marking the beginning of the East India Corporation's transition from a trading corporation to a governing entity.

7.3 Period From 1843-1950

Dr. Buist, an Englishman, had a key role in the construction of the infamous school, which at the time was known as the David Sassoon Industrial School in Bombay, which became the first ragged school for orphans and vagrant children in India in 1843. The school's goals were-

- i. The rehabilitation of young criminals who have been taken into custody by the police, and
- ii. Encouraging working-class people to pursue apprenticeships.

Collectively, these events set the stage for the introduction of the Apprentices. During this time, a number of laws covering a variety of child-related issues were passed.

7.4 Period From 1950-1986

Following India's independence in 1947, the country was divided, resulting in mass migration and riots, which left many children homeless and without family support. The Children Bill 1953, which was intended to apply to the Part C states, was extensively discussed in Parliament before being shelved in 1954 when the states were reorganized.

The first central Children Act was established by the Indian Parliament in 1960; however it was only applicable to union territories. All other states that passed Children Acts after 1960 did so because it was marketed as a model law.

Journalist Sheela Barse petitioned the Supreme Court of India in 1983 on behalf of the public interest to get the release of 1,400 children who, according to government documents, were detained.

She stated that the Children Acts of several states forbade the incarceration of minors; hence these kids were unlawfully detained. This petition included the Union of India as well as all of the states and union territories as parties. Area judges and legal assistance committees were tasked with compiling reports on the situation in each area.

The Supreme Court observed that different states were treating children differently as a consequence of disparities in their Children Acts, particularly with regard to the age at which a child is considered to be a different state. In order to eliminate this inequity, the Supreme Court recommended to the Union of India that it enact consistent laws for children throughout the nation.

7.5 Period Post 1986 (The Juvenile Justice Act Of 1986)

During this time, Parliament passed the Juvenile Justice Act of 1986, which was the main uniform enactment. With the exception of Jammu & Kashmir province, it was connected to all of India. The definition of "youngster" was based on a person's sex, and it completely prohibited the detention of children in jails, prisons, or police headquarters. These were the main features of the Children Act of 1960.

Prior to the Juvenile Justice Act of 1986's approval, concerns were expressed regarding the youngsters' court's ability to handle serious crimes in light of Section 27 of the Code of Criminal Procedure of 1974, which permitted the transfer of minors under the age of 16 who committed crimes not punishable by death or life in prison to the juvenile court. After reviewing the evidence, the Supreme Court determined that juvenile courts may try cases involving serious crimes that could result in death or life in prison.

Following the Juvenile Justice Act of 1986's enactment, the relevance of the act to juvenile offenders under the specific statutes was largely examined and selected differently by different courts. An abrogating impact clause in the extraordinary laws stated that the preparations of that protest would have precedence over any other opposing legislation that was in effect.

8. ASPECTS OF THE CONSTITUTION

India's basic law is recognized to be the Constitution. The constitution outlines the rights and responsibilities of people. It also specifies how the government apparatus would operate. The Directive Principles of State Policies (DPSP), which serve as broad guides in the formulation of governmental policies, are provided for the people in both Part III and Part IV of the Constitution. A few fundamental rights and protections are granted by the constitution, mostly for the benefit of children.

- Article 21A guarantees the right to free and compulsory primary education for all children aged 6 to 14.
- Until the age of fourteen, Article 24 guarantees the right to be shielded from any hazardous labor.
- Article 39 guarantees the right to protection from all forms of adult abuse. Article 39 guarantees protection against human trafficking and forced labor.
- Article 47 guarantees a healthy diet and a high quality of living.
- As per Article 15(3) of the Indian Constitution, the State is authorized to enact any particular law for the betterment of women and children.

9. FINDINGS

- a) India is home to a sizable number of street children who disobey the law because they lack family, have been mistreated, or have received inadequate education.
- b) The aforementioned graph shows that, between 2005 and 2015, the percentage of the population who is illiterate decreased from 8.66% to 4.75%.
- c) Primary school enrollment increased from 12.3% to 14.2%.
- d) The percentage of primary to higher secondary education climbs sharply from 9.50% to 19.05% due to poverty and other factors.
- e) It is discovered that between the ages of 16 and 18, 2.11% to 3.34% of crimes are perpetrated by juveniles.
- f) The total number of juveniles arrested under the Indian Penal Code and other social and municipal laws between 2005 and 2015 was 41.3%, a significant increase from 32.6%. This indicates that 8.7% of juveniles commit crimes overall because they cannot afford to receive a decent education.
- g) When taking into account the juvenile's family history, the proportion of crimes committed by them ranges from 32.68% to 41.38%. In all, the rate of crimes committed by juveniles due to improper family background non-viability is 8.7%.
- h) India has a vast population that is neglected and has low levels of education. As a result, people on the streets flout the law.
- i) The juvenile justice system in India continues to be ineffective. The administration of juvenile justice is now unclear due to the lack of efficient implementation, coordination, monitoring, and accountability under current law. Legislation must be changed in accordance with the spirit of the constitutional requirement to provide care, protection, and treatment for both juveniles in conflict with the law and children in need of it simultaneously.

10. CONCLUSION AND SUGGESTIONS

The quick development of technology and children's easy access to everything are altering their mindsets and encouraging some terrible acts by under-18-year-olds. Together, parents, teachers, NGOs, and college and school administrations figure out how to shield children from the negative effects of adult films, TV shows, the Internet, and cell phones. Adolescents represent the nation's future, thus it is important to provide them with extra protection and care if they are tried and punished for crimes they have committed at such a young age, since it may cause them to become hardened criminals.

With initiatives like Functional Family Counseling and Instruction, which prioritize empowering rather than penalizing young people, we may imagine a better future for India's kids. If we wish to have a juvenile justice system that works, we must take into account a number of crucial elements, including strong community partnerships, evidence-based practices, lowering incarceration, anti-bullying services, and a concentration on high-risk youth. The communities' position on this issue is to work with the federal and state governments to create a better strategy for allocating financing for these services, as well as to provide our at-risk youth and offenders with more effective preventive and rehabilitative programs. Parents who have trouble controlling their child's conduct or who act improperly may choose to file complaints with a variety of informal organizations, such as registered residential groups. As this article noted, families are strong socialization and social regulation mechanisms. As a result, families could collaborate more with other significant socioeconomic groups to undertake preventative measures.

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