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REFORMATION IN JUVENILE JUSTICE SYSTEM**INTRODUCTION- WHAT IS JUVENILE JUSTICE?**

The Juvenile Justice system deals with procedures that regulate the treatment of offenders of law who have not yet attained the age of majority, that is, 18 in India. Criminal Offences committed by adults are referred to as delinquency when they are committed by juveniles. Such offences include theft, murder, battery, etc.

HISTORY AND BACKGROUND

The exact procedures for delivering juvenile justice have evolved throughout time—across civilizations and even within countries. In the mid-nineteenth century, Great Britain established the concept of delinquency, as well as special trials and institutions for confining and controlling youth. However, until the Juvenile Court of Law was established in Chicago in 1899, minors were prosecuted in the same courts as adults. The success of the first court dedicated to cases involving delinquent children led to the establishment of other juvenile courts, sometimes known as children's courts or family courts, in other states. Other nations, such as Canada, France, Great Britain, Russia, Poland, Japan and Germany quickly embraced the concept.¹

HISTORY OF JUVENILE JUSTICE IN INDIA

¹ Available at: www.researchgate.net [Last accessed on July 20, 2021].

In India, prior to Juvenile Justice Act, 2015, 2000 and 1986, the Children Act of 1960 used to exist. It attempted to give effect to worldwide answers to the issue of juvenile justice by providing a consistent policy that safeguarded the interests and rights of a juvenile and looked at care, treatment, rehabilitation, and development of a child in general.

The Juvenile Justice Act of 1986, which abolished the previous Children Act of 1960, was enacted to give effect to the standards set forth in the United Nations' Standard Minimum Rules for the Administration of Juvenile Justice, which were approved in November 1985.

The above-mentioned Act included 63 sections and seven chapters, and it applied to all of India excluding Jammu and Kashmir. The Act's main goal was to offer care and protection, as well as therapy, development, and rehabilitation, to neglected juvenile delinquents. The Act's major goals were as follows:

- I. The legislation essentially established a standard framework for juvenile justice throughout the country, ensuring that the rights and interests of juveniles are protected.
- II. It discusses the equipment and infrastructure in place to care for, protect, treat, develop, and rehabilitate young offenders.
- III. It established the foundations for the proper and equitable administration of criminal justice in cases involving horrific crimes committed by juveniles.

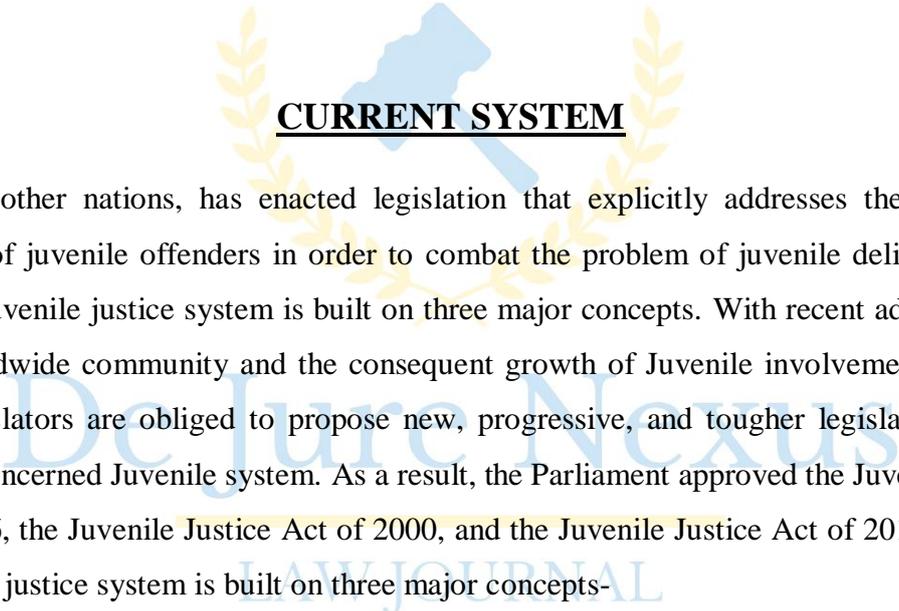
The Juvenile Justice Act of 2006 was enacted with the goal of protecting children. The above-mentioned was changed twice, the first in 2006 and the second in 2011. The modification was proposed to address the implementation gap and loopholes. Furthermore, the rising number of incidents of juvenile criminality in recent years has compelled legislators to enact legislation. The Act's main flaw is that it contains ill-equipped legal provisions, and the juvenile system's failure was also a key factor in avoiding juvenile crimes in India. The Juvenile Justice Act, 2000 was quickly superseded by the Juvenile Justice (Care and Protection) Act, 2015.

WHY INTRODUCE JUVENILE JUSTICE SYSTEM?

The crime rate among youngsters under the age of 16 has risen in recent decades. The growing crime rate might be attributed to the child's raising environment, economic difficulties, a lack of education, and parental care. These are some of the most important reasons. The worst aspect is that nowadays, children (particularly those under the age of five to seven years) are exploited as tools for committing crimes since their minds are still extremely innocent at that age and can easily be influenced.

One of the real life incident includes the terrifying Nirbhaya Delhi Gang Rape Case which happened in December 16, 2012 and it engulfed the whole nation in a deep shock. There were a lot of debates going on between legal community and the socialists, the reason for which was the involvement of an accused of rape who was 17 years and 6 months old. The accused's involvement in such a horrific act of rape compelled the Indian Legislature to pass a new statute, which is known as "Juvenile Justice Act, 2015."

With the passage of the Act, existing juvenile laws were repealed, and several significant amendments were made. One of the notable modifications is that juveniles between the ages of 16 and 18 should be prosecuted as adults.



CURRENT SYSTEM

India, like other nations, has enacted legislation that explicitly addresses the rights and protection of juvenile offenders in order to combat the problem of juvenile delinquency. In India, the juvenile justice system is built on three major concepts. With recent advancements in the worldwide community and the consequent growth of Juvenile involvement in crime, Indian legislators are obliged to propose new, progressive, and tougher legislation for the country's concerned Juvenile system. As a result, the Parliament approved the Juvenile Justice Act of 1986, the Juvenile Justice Act of 2000, and the Juvenile Justice Act of 2015. In India, the juvenile justice system is built on three major concepts-

- a. Young criminals should not be prosecuted in courts, but should instead be helped in every manner feasible.
- b. They should not be punished by the courts, but rather be given the opportunity to change.
- c. Trials for children who have broken the law should be centred on non-punitive treatment in the community, utilising social control organisations such as Observation Homes and Special Homes.

As there was a need for a more strong and effective judicial system that focused on both deterrence and reformative techniques, the Juvenile Justice Act of 2015 superseded the Juvenile Justice Act of 2000. There have been arguments in Parliament that the attitude to juveniles should be different from that to adults, and that juveniles should be allowed greater opportunity for change, reformation and improvement, which is only achievable when there is a particular

judicial system in place. As a result, the new Juvenile Justice (Care and Protection of Children) Act of 2015 emphasises a juvenile-friendly approach to issue resolution and adjudication.

Some of the most prominent characteristics are as follows:

- 1) The definition of a child is given in Section 2 (12) of the Juvenile Justice (Care and Protection of Children) Act, 2015, which states that a child is a person who has not reached the age of 18, i.e. he or she is under the age of 18. The Act divides the word "Child" into two categories: "Child in need of care and protection" and "Child in conflict with the law" (Section 2 (13) of the Juvenile Justice (Care and Protection of Children) Act, 2015). There was a clear contrast drawn between the facets of offences, implying that the offences were classified as heinous, severe, or minor. If a juvenile between the ages of 16 and 18 commits any sort of crime, they can be prosecuted as an adult following a thorough examination of their mental ability.
- 2) Introduction of Juvenile Courts, implying the creation of specific courts dedicated solely to the prosecution of juvenile offences, such as NDPS courts, POCSO courts, and so on.
- 3) The scope of the concept of a "Child in Need of Care and Protection" was expanded with the passage of the 2015 Act by taking into account the following points among the numerous listed in Section 2 (14) of the Juvenile Justice (Care and Protection of Children) Act, 2015-
 - a) Those whose guardians or parents are/were unable or unwilling to care for their children.
 - b) Those who are/were discovered practising work that is illegal under the labour law.
 - c) Those who are on the verge of marrying before reaching the required legal age.
 - d) The definition of adoption is also defined in the Act, which recognises the rights of adopted children².

The goal is to consolidate the laws relating to children alleged to be in violation of the law and children in need of care and protection by catering to and considering their basic needs through proper care and protection, development, treatment, and social-integration, and by using a child-friendly approach in adjudication and disposal of matters in the best interests of children. The statute also emphasises juvenile offender rehabilitation through various child care homes and institutions.

² Section 2(14) Juvenile Justice Act, 2015

WHO CAN CLAIM JUVENILITY?

The “claim of juvenility” is the first and most contentious issue among the legal community and Socialists. The claim of juvenility will be decided by the Juvenile Justice Board. The Board must rule on the charge of juvenility before moving to court, although the claim of juvenility can be presented to court at any point throughout the proceedings, even after the Board's decision.

In the case of **KulaiIbrahim v. State of Coimbatore**, the Court stated that under Section 9 of the Juvenile Justice Act, 2015, an accused has the right to raise the issue of juvenility at any time during the trial or even after the case has been decided.³

The court decided in case of **Deoki Nandan Dayma v. State of Uttar Pradesh** that an entry in the school record stating a student's date of birth is acceptable evidence in ascertaining the age of a juvenile or demonstrating whether the accused is a juvenile or a child.⁴

The Supreme Court stated in **Satbir Singh and others v. State of Haryana** that the date of birth reported in the school records should be taken into account by the Juvenile Justice Board while determining whether an accused is a juvenile or not.⁵

In the case of **Krishna Bhagwan v. State of Bihar**, the court held that the relevant date for determining the age of a juvenile should be the date on which the offence was committed⁶, but this was overturned in the case of **Arnit Das v. State of Bihar**, which held that the date to decide in a claim of juvenility should be the date on which the accused is brought to the attention of the appropriate authority.⁷

PRINCIPLE OF DOLI INCAPAX

A question may arise about what if the crime is committed by a child who is incapable of understanding what he/she is doing. In this case, the principle of ‘doli incapax’ came into play.

³ AIR 2014 SC 2726

⁴ 1997 i0 SCC 525

⁵ AIR 2005 SC 3549

⁶ AIR 1989

⁷ AIR 2000 SC 748

The principle of 'Doli Incapax' refers to a person's inability to commit a crime. It is based on article 40 (3) (a) of the United Nations Convention on the Rights of the Child, which stipulates that every nation shall specify the minimum age for children who should be excused from criminal culpability due to their incapacity to comprehend the nature and consequences of their actions. When this principle is applied and construed in the context of Indian law, the consequence is that no juvenile under the age of seven should be punished for committing a crime. For juveniles aged 8 to 14, the prosecution is responsible for proving the offence committed by the minor in question.

The following points summarise the primary goals of this principle of doli incapax:

- A. A youngster should be shielded from the severity of punishment meted out for his actions. To help the youngster overcome his paranoia, a reformatory technique should be used.
- B. A child under the age of seven years old lacks the mental ability to assess the implications of his actions, he or she may lack the knowledge as well as the desire to conduct a crime, and simple "actus reus" cannot be used as a basis for prosecution unless it is accompanied by "mens rea".

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PERSONAL OPINION

In my opinion, to control the juvenile crime rate, workshops in schools should be held on a regular basis so that any evil thoughts don't cross their minds. Children who have faced sexual harassment or any other kind of trauma should be properly counselled. Making our children more sensitized towards other living beings will surely help in improving the present scenario.

CONCLUSION

The rising rates of adolescent criminality in India are a serious worry that must be addressed. Although the government has enacted numerous laws and regulations to reduce juvenile crime, the current laws on juveniles do not have a deterrent impact on juveniles, and so the outcomes are ineffective and the legislative goal is not being fulfilled. Also, there have been a lot of amendments and reformatory measures in the present statute but a lot is still to be done so as to effectively and efficiently control juvenile crime in the country.