

An Insight into Criminal Liability of a Juvenile in India

By: Swarnalata Nayak and Dr. Sanjaya Choudhury

Research Scholar, Bhagwant University, Ajmer, India

Professor, Bhagwant University, Ajmer, India

Abstract: *This paper presents an insight into the Juvenile Justice System and its efficacy in bringing the juvenile offenders to the main stream society in India. Juvenile Justice refers to the legal and institutional framework that deals with children in conflict with the law, commonly known as juveniles. The present study aims to understand what policies and practices are associated with juvenile arrests, incarceration, and detention rates. While the adult system has relatively uniform practices across states, the juvenile justice system has wide variation, particularly when it comes to policies regarding the ages at which a juvenile can be tried as a minor and as an adult as well which rights are guaranteed to juveniles in the criminal justice system. The system aims to protect the rights of children while ensuring their rehabilitation and reintegration into society, as opposed to subjecting them to adult penal provisions. Despite the existence of this legal framework, the efficacy of the juvenile justice system in India has been the subject of much debate. One of the main criticisms of the system is that it is often ineffective in rehabilitating juvenile offenders and preventing them from reoffending. There have also been concerns raised about the lack of resources and infrastructure available to the juvenile justice system. This has led to overcrowding in juvenile homes and inadequate facilities for rehabilitation.*

Keywords: Juvenile; rehabilitating, efficacy, incarceration, reintegration, offenders

I. INTRODUCTION

The juvenile justice system was founded on principles of rehabilitation and treating youth differently from adults. Since its creation, the system has implemented a number of punitive policies and developed issues regarding a lack of human rights. While the adult system has relatively uniform practices across states, the juvenile justice system has wide variation, particularly when it comes to policies regarding the ages at which a juvenile can be tried as a minor and as an adult as well which rights are guaranteed to juveniles in the criminal justice system. Without a proper understanding of the nuance and implications of policies such as the age of criminal responsibility and juvenile waiver laws, little can be done to help system involved youth in the country. It is therefore crucial that research keeps up with the rapidly changing condition of the juvenile justice system. This study addresses the research questions using a dataset created by pulling together state-level data on the juvenile justice system from several sources.

Juvenile justice in India refers to the legal framework and system that deals with children in conflict with the law, or those who have been victims of crimes. India's approach to juvenile justice is largely rooted in the principle that children, due to their age and development, should not be held to the same standards as adults. The goal is to rehabilitate, reintegrate, and protect children, instead of subjecting them to harsh punishment.

Who is a Juvenile?

A **juvenile** is generally defined as a person who is under the legal age of adulthood, which varies from country to country. In the context of the **Indian legal system**, a juvenile is defined as a person who has not yet reached the age of 18 years.

In legal terms, juveniles are considered individuals who have not attained the mental, emotional, or social maturity of an adult, and, as such, they are treated differently when they come into conflict with the law. The focus for juveniles is typically on rehabilitation and reintegration into society rather than punitive measures.

Juvenile Delinquency

Juvenile delinquency refers to the antisocial behaviour of children under the age of 18 years. The term juvenile delinquency refers to the socially disapproved behaviour because in this stage a lot of physiological and psychological changes happen in the body of the individuals living in the society. Due to these changes some of the children fail to balance their life and behaviour¹ and there is a fair chance to engage in antisocial activities.

Delinquency is defined as an act or behaviour done by a juvenile that is socially undesirable. A juvenile is a minor below the legal age depending on the country who cannot be held accountable for their criminal behaviour. Juvenile delinquency is thus an antisocial act that is illegal or criminalistic in nature done persistently by a minor and cannot be handled by the parent or guardian but requires the help of law enforcement agencies as the act threatens the well-being of the society. Etymologically, the term 'delinquency'² has been derived from the Latin word delinquer which means 'to omit'. The Romans used the term to refer to the failure of a person to perform the assigned task or duty. It was William Coxson who in 1484 used the term 'delinquent' to describe a person found guilty of customary offence. The word also found place in Shakespearean famous play 'Macbeth' in 1605. In simpler words it may be said that delinquency is a form of behaviour or rather misbehaviour or deviation from the generally accepted norms of conduct in the society. The early penology did not recognize any discrimination between adult and juvenile offenders so far punishment was concerned. The problem of juvenile delinquency³ is therefore, essentially of a recent origin. The youngsters between a certain age-group are easily attracted to the temptations of life and lend into criminality. As is often said, the child of today is the citizen of tomorrow. The criminal tendency in youngsters must therefore, be timely curbed so that they do not turn into habitual criminals in their future life. It is with this end in view that most countries are presently tackling the problem of juvenile delinquency on priority basis. Juvenile Delinquency refers to participation of minors in unlawful crimes. When someone deviates from the everyday route of his social existence his behaviors are called as 'delinquent'. In different phrases whilst a juvenile's move shows to be risky closer to the society and for him, he can be known as a juvenile delinquent.

II. REVIEW OF LITERATURE

Singh, R.P. et.al.(2016), in their research study entitled on "A study of Juvenile delinquents: impact of Socio economic factors of family in the state of Uttar Pradesh, India". The main objective of this study was to find out the impact of socioeconomic factors of family behind Juvenile delinquency. The researcher selected 600 Juvenile delinquents⁴ and 60 sets of parents from Observation Home in Allahabad district purposely. The researchers found that majority of the families have low education level, illiterate, low income level. Most of the Juveniles did not have any previous criminal record and their families were also not involved in anti social activities. Majority of the respondents belonged to Backward Castes, Scheduled Castes, Scheduled Tribes and minorities. Majority of the respondents were from joint family.

- *Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2 of 2016, Gazette of India, Ministry of Law and Justice*
- *Juvenile Justice (Care and Protection of Children) Act, 2015, Sections 2(12) and 18*
- *Becker, G. (1968). Crime and Punishment: An Economic Approach. Journal of Political Economy 76(2):169-217.*
- *Camenor and Phillips (2002). The Impact of Income and Family Structure on Delinquency. Journal of Applied Economics, Vol. V, No.2 (Nov 2002), 209-232*
- *Juby, Heather and David P. Farrington. (2001). "Disentangling the Link between Disrupted Families and Delinquency." British Journal of Criminology. 41: 22-40.*

Chandolu, S.R.(2015), in his research paper entitled on "Child Rights perspective of juvenile delinquency in India". The main objective of this study was to study the incidence of juvenile delinquency. The researcher selected total 60 respondents from juvenile home in Visakhapatnam randomly. The researcher found that the juvenile offenders are increasing and poverty is the major reason behind juvenile delinquency. Majority of the respondents told that the juvenile should be treated differently from adults.

Chingtham, T.(2015), in her research study entitled on “Causes of juvenile delinquency in the higher secondary school students”. The main objective of this study was to study the causes of juvenile delinquency. The researcher randomly selected 120 students from higher secondary school of Imphal. The researcher found that 75.83 percent of the respondents agree that social factors are the main reason behind juvenile delinquency whereas 65.83 percent of the respondents agree that family factors and personal factors are the main casual factors behind juvenile delinquency.

Gupta, A. (2015), in their research study entitled on "Socio demographic characteristics and aggression quotient among children in conflict with law in India: A case control study". The main objective of this study was to assess the socio demographic characteristics and the aggression quotient of children in conflict with the law. Researchers selected 90 respondents from 5 observation homes in Hyderabad, Lucknow and Pune purposively. The researchers found that majority of the respondents were from low socioeconomic status, broken homes and criminal families. Respondents also suffered the problems of physical and sexual abuse. The researcher also found that the respondents were having high levels of aggression.

Murugesan, D.(2014), in his research study entitled on "A study of causal factors leading Juveniles to be in conflict with law in Tamilnadu's sociological perspective." The main objective of the study was to find out the causal factors of delinquency. The study was conducted in Observation Home and special home in Tamil Nadu. The researcher found that the main factors responsible for delinquent behavior are restrictive family type, poverty, broken homes, Peer influence, uncongenial family environment, unsupervised by their parents, low level of education, drinking habits and Immorality etc.

Dey, M.(2014), in their research paper entitled on “Juvenile Justice in India”. The main objective of this study was to understand the causes of juvenile delinquency. The researcher found that the main reasons of juvenile delinquency are extra pocket money, revenge factor, poor literacy rate, over exposure to media, lack of moral values, cheap literature, love of adventures, mental conflict etc. **Sahmy, K.(2013)**, in her research study entitled on "A study on factors underline Juvenile delinquency⁶ and positive youth development programmes." The main objective of the study was to explore the factors behind Juvenile delinquency. The study was conducted in Observation Home Odisha. The researchers found that negligence, ignorance of the parents, Peer influence, poor socioeconomic status, family pressure, lack of proper socialization are positive major risk factors of the delinquency. **Haveripeth, P.D.(2013)**, in his research study entitled on “Contributing factors of juvenile delinquency”. The main objective of this study was to discuss the factors behind juvenile delinquency. The researcher found that various factors contribute to the delinquency like broken homes, lack of love, lack of parental care, poverty, TV and media, peer group, urbanization, low socio-economic status, poor academic performance, large family size, drug and alcohol use etc.

Chowdhury, I.A. et.al.(2012), in their research study entitled on "Causes and consequences⁷ of juvenile delinquency in Bangladesh: A sociological analysis." The main objective of this study was to find out the causes, consequences and diversity of criminal activities by juvenile delinquents. The researcher selected all the reports from Juvenile Development Institute, Bangladesh. Purposive sampling method was used for this study. The researchers⁸ found that majority of the respondents are illiterate, large family size, low family income. Majority of the respondents were unable to fulfil their basic needs and living in crime prone areas. The researchers also found that the other major reasons behind Juvenile crime was harsh control of parents, quarrel between parents and social media, lack of recreational activities. **Sharma, B.S.et.al.(2009)**, in their research study⁹ entitled on” Juvenile delinquency in India A cause for concern”. The main objective of this study was to understand the causes of juvenile delinquency. The study is based on secondary data. The researcher found that the childhood experiences are very important in the development of criminality. The researcher also focused on the sociological theories of juvenile delinquency, these theories give importance to the environment, social structure and learning process in the emergence of juvenile delinquency.

Ved Kumari, Juvenile Delinquency: A Socio-Legal Study, 2nd ed. (Oxford University Press, 2004).

N.V. Paranjape, Juvenile Delinquency and Justice System in India, 3rd ed. (Central Law Publications, 2019)

S.P. Srivastava, Child Rights and Juvenile Justice System for Juvenile in Conflict with Law, 5th ed. (Orient Publishing Company, 2020)

Sheela Barse v. Union of India, (1986) 3 SCC 596

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Historical Background of Juvenile Justice in India

The concept of **juvenile justice** in India has evolved significantly over time, influenced by societal changes, colonial policies, and growing awareness of children's rights. Here's a breakdown of the historical evolution of juvenile justice in India:

1. Pre-Independence Era: Early Legal Provisions

Before India gained independence, the idea of juvenile justice was somewhat limited and rudimentary. The legal system focused more on the welfare of children as dependents rather than considering them as individuals with specific rights. Some of the important developments include:

The Indian Penal Code (IPC) of 1860: Under British colonial rule, the Indian Penal Code defined children under the age of 7 as incapable of committing a crime, as they were not considered to have the mental capacity to form intent (*mens rea*). However, this did not provide a robust framework for the rehabilitation of children who committed offenses.

Reformatory Schools Act of 1876: The first significant move toward juvenile justice was the establishment of reformatory schools. The **Reformatory Schools Act of 1876** was introduced to address the needs of young offenders. The Act allowed the setting up of reformatory schools, where children in conflict with the law could be sent instead of prisons. This was based on the idea of reforming, rather than punishing, children.

2. Post-Independence Era (1947-1980s)

After India's independence in 1947, there was a growing recognition of the need for specialized laws and practices that catered to children in conflict with the law. The **Indian Constitution** of 1950 also contained provisions related to children's welfare, though it didn't directly address juvenile justice.

Children Act of 1960: This was one of the first pieces of legislation that specifically focused on children in conflict with the law. The **Children Act, 1960** provided for the establishment of juvenile homes and juvenile courts. It marked a step toward protecting children's rights and ensuring that their rehabilitation was prioritized over punishment.

The Children (Protection and Welfare) Act, 1974: While not specifically a juvenile justice law, this Act focused on the welfare of children and laid the groundwork for later developments in juvenile justice. It allowed for the creation of institutions and processes aimed at ensuring the care and protection of children.

3. The Juvenile Justice Act of 1986

The **Juvenile Justice Act, 1986** was a landmark law in India's juvenile justice system. It was the first comprehensive legislation that specifically dealt with juvenile offenders and aimed to provide them with protection, rehabilitation, and reform. The Act was formulated in response to the increasing awareness of the need to deal with children in conflict with the law in a humane and child-centric manner.

Definition of Juvenile: The Act defined a juvenile as a person below the age of 18 years who committed an offense.

Separate Juvenile Courts: The Act provided for the establishment of Juvenile Courts, which would deal exclusively with cases involving juveniles. It also made provisions for the establishment of Juvenile Homes for rehabilitation.

Focus on Rehabilitation: The primary aim of the 1986 Act was to focus on the rehabilitation and social reintegration of children in conflict with the law, rather than punishment.

4. International Influence and the United Nations Convention on the Rights of the Child (CRC)

In the 1990s, as the global focus on children's rights grew, India began aligning its juvenile justice laws with international standards. In 1992, India ratified the **United Nations**

Convention on the Rights of the Child (CRC), which laid down various guidelines for the treatment of children. These included the principles of non-discrimination, the best interests of the child, and the right to protection from harm and exploitation.

Key Principles of CRC:

- **Non-discrimination:** Every child, regardless of race, color, gender, or background, has the right to protection and support.
- **Best Interests of the Child:** Decisions regarding children must always consider what is in their best interest.
- **Right to be Heard:** Children have the right to express their views freely in matters affecting them.

5. The Juvenile Justice (Care and Protection of Children) Act, 2000

The **Juvenile Justice (Care and Protection of Children) Act, 2000** replaced the 1986 Act and was a major step forward in modernizing India's approach to juvenile justice. It integrated the principles laid out by the **United Nations Convention on the Rights of the Child (CRC)** into Indian law. Key features of the Act included:

- **Care and Protection:** The Act emphasized not only dealing with juveniles in conflict with the law but also those in need of care and protection. It provided for the creation of **Child Welfare Committees** to ensure the welfare of children.
- **Juvenile Justice Boards:** Juvenile Justice Boards were established to handle cases of children in conflict with the law. These boards had a specialized structure, including social workers, who could ensure that children's rights were protected during the legal process.
- **Focus on Rehabilitation:** The law placed a strong emphasis on rehabilitating and reintegrating juvenile offenders into society, with a focus on education, vocational training, and counseling.

6. The Juvenile Justice (Care and Protection of Children) Act, 2015

Following the **Nirbhaya gang rape case (2012)**, there was public outcry over the lenient treatment of a juvenile offender. This led to debates about whether juveniles between the ages of 16 and 18 who committed heinous crimes should be treated as adults.

In response to these concerns, the **Juvenile Justice (Care and Protection of Children) Act, 2015** made significant amendments:

- **Lowering the Age for Heinous Crimes:** The Act lowered the age limit for juveniles to be treated as adults from 18 to 16 years in cases involving heinous offenses such as rape and murder. Juveniles in this age group would now face the same legal procedures as adults, including being tried in adult courts for heinous crimes.
- **Focus on Rehabilitation:** While allowing for harsher punishments for certain juveniles, the Act still placed a strong emphasis on rehabilitation, counseling, and reform for those under 18.

III. CONCLUSION

Despite various legislations, the crime among juveniles is increasing day by day. On analyzing the work by researchers and trends of crime in past 15 years there are some shocking result not just because of low income but due to the lack of education and supervision children are prone to such acts. Also socioeconomic and educational groups children are affected by parents not spending quality time with them and by an increasingly competitive world. However, Indian legal system understands the value of coordination and cooperation amongst many stakeholders, such as governmental and non-governmental organizations, academic institutions, and local leaders. Through the establishment of collaborative relationships and the exchange of resources, knowledge, and optimal methodologies, these interested parties can collaborate to establish a nurturing atmosphere that enhances the resilience and overall welfare of adolescents while diminishing their vulnerability to deviant conduct. A comprehensive approach to addressing juvenile misbehavior is exhibited by the juvenile justice system in India, which incorporates preventative tactics, legal reforms, rehabilitation programs, and cooperative initiatives.

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