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INDIA'S JUVENILE DELINQUENCY: CURRENT TRENDS AND THE ACCOMPANYING AMENDMENT TO THE JUVENILE JUSTICE ACT

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ABSTRACT

Juvenile delinquency is a serious crime that disrupts a nation's social order. There is a global increase in juvenile delinquency, with a growing number of young individuals engaging in violent criminal activities. India is experiencing a similar pattern of rising incidences of violent crimes committed by minors. Addressing this crucial national issue will require thoughtful consideration. As a response to these changes, the Indian judiciary and legal system have adjusted the nation's juvenile justice statutes. This study examines the factors contributing to adolescent delinquency and the rationales provided by scholars across many fields. Official figures show an increasing trend of young individuals engaging in severe criminal activities. The amendment to the Juvenile Delinquency Act permits the trial of adolescents accused of serious offenses in adult courts as a measure to combat juvenile delinquency in India.

KEYWORDS: *Delinquency; Juvenile Justice System; Juvenile Justice Act; Juvenile Justice Board*

INTRODUCTION:

“A child is a person who is going to carry on what you have started. He is going to sit where you are sitting, and when you are gone, attend to those things you think are important. You may adopt all the policies you please, but how they are carried out depends on him. He is going to move in and take over your churches, schools, universities and corporations. The fate of humanity is in his hands”.

By-Abraham Lincoln¹

Children are the cornerstone upon which the future of any nation is constructed. They assume positions of authority within the nation, generate economic prosperity for the state, and safeguard the indigenous human population. Different regions of the globe produce children with distinct worldviews and advancement rates. They cultivate their perspectives on social and political matters while fortifying their capacity for abstract thought. They gain the capacity to establish objectives and devise long-term strategies. Additionally, individuals tend to evaluate themselves in comparison to others. They desire autonomy from their parents and a distinct sense of self. At this age, peer pressure and acceptance become crucial. They often demonstrate a predilection for committed relationships and romantic partnerships, along with harboring profound erotic and romantic ambitions. These alterations are customary and generally do not indicate any unusual occurrences. Problems arise when these young individuals partake in delinquent activities and encounter legal complications.²

Criminal conduct and delinquency usually decrease as individuals get older, reaching their highest point during adolescence. A recurring theme of criminal activity can be observed across diverse historical, geographical, and cultural settings. Young adults and adolescents exhibit a higher propensity for engaging in conventional criminal activities. Rapidly, a significant proportion of these wrongdoers cease their illicit undertakings. There are specific types of criminal activity that exhibit a gradual decline after their prime years. The occurrence of offenses committed by minors is a matter of grave concern in every nation. A juvenile is a child who has not yet reached a developmental threshold that would otherwise allow them to reason logically and comprehend the repercussions of their actions. Consequently, the child's illicit conduct absolves them of any legal liability. Youthful delinquency refers to a child who is indicted on

¹Wroblewski, M., Henry (2000) an introduction to law enforcement and criminal justice, Thomson Learning, USA, pp-540-541

² *Id.*

criminal charges subsequent to suspicion of having violated the law.³

According to Section 2(k) of the Juvenile Justice (Care and Protection of Children) Act, 2015, an individual is considered a juvenile if, as per Indian legislation, they are not older than sixteen years. Before the Juvenile Justice Act of 2015 was enacted in 2015,⁴ the age limit for juveniles was established at eighteen years old by the Juvenile Justice (Care and Protection of Children) Acts of 2000 and 2006. The age of a juvenile has been subject to variation over time and across different geographical areas in accordance with Indian law. The age range for individuals in India varies by state, spanning from 14 to 18 years old.⁵

The Significance of Socio-Psychological Research in Formulating a Demand for International Instruments A multitude of academic fields have conducted research pertaining to juvenile delinquency, thereby drawing attention to the imperative for a robust international framework that can counsel governments on the most effective approaches to address this issue. The year 1989 marked a significant milestone in the development of international human rights law: the United Nations Convention on the Rights of the Child (CRC) was officially established. It provided unambiguous statements of the children's rights and the rationales supporting their protection. The promotion of adolescent empowerment, social justice, and equity has progressed due to the rights-based approach outlined in the CRC. The Convention on the Rights of the Child (CRC) guarantees civil, political, economic, social, and cultural rights to every child, irrespective of their race, religion, or aptitude.⁶

These rights are legally enforceable. The agreement comprises 54 articles that delineate the rights of minors and the obligations of governments to collaborate in safeguarding those rights. Since its inception in 1980, nineteen nations have ratified the convention. The Committee on CRC ensures that states that are parties to the United Nations Convention comply with the provisions of the convention. States that have ratified the UNCRC are obligated to implement its provisions and adhere to international law. Since ratifying the CRC in 1992, India has enacted several laws to protect the rights of minors. The Juvenile Justice Act of India is an all-encompassing statute

³ Chinte,C.I.(1949):fifty years of juvenile court. In M.Bell(Ed.)Current approaches to delinquency, New York: National Probation and Parole Association.

⁴ Maruf, Mohammad Muntasir, Farzana Rhaman et al (2015), "Socio- Demography, Substance Abuse and Offence Among Inmates with Psychiatric Disorder in Female Juvenile Center, Bangladesh". PEOPLE: International Journal of Social Science. 1 (1): 500- 508

⁵ *Id.*

⁶ *Id.*

designed to address matters concerning juvenile offenders.⁷

EVOLUTION OF JUVENILE JUSTICE LAWS IN INDIA:

In India prior to the British conquest, families were responsible for keeping tabs on their children and following the rules set out by Hindu and Muslim law. New child-related rules were recognized as essential during British rule in India.⁸ Several pieces of legislation were enacted between 1850 and 1919, such as the 1850 Apprentice Act, the 1861 Code of Criminal Procedure, and the 1876 and 1897 Reformatory School Acts. The Apprentice Act of 1850 mandated that disadvantaged or young offenders aged 10 to 18 be given distinct treatment and compelled to serve as apprentices for merchants. Section 82 of the Indian Penal Code of 1860 acknowledges the unique position of children. It established age restrictions on criminal responsibility, protecting children under the age of seven from being prosecuted. Children aged 7 to 12 were deemed sufficiently mature to comprehend the repercussions of their conduct in specific situations. The Code of Criminal Procedure prioritizes reformatories above imprisonment for individuals under the age of 15. It included instructions for probation for petty offenders. The state's current approach to adolescent offenders demonstrates a shift in perspective from punishment to reform.⁹

The Reformatory School Acts of 1876 and 1897 were among the earliest pieces of legislation. Under the Act, delinquents were expected to attend reformatory schools for a period ranging from two to seven years. Upon reaching the age of eighteen, they were sent to adult correctional centers. The 1897 Act detailed the treatment and rehabilitation of juvenile offenders. No national laws were established under Britain's rule. Some provinces, such as Pondicherry, Madras, and Bombay, have enacted specific legislation to address adolescent misbehavior. India's juvenile justice policy was created after gaining independence, based on the guidelines outlined in various portions of the Indian Constitution, specifically Article 15 (3), 21, 24, 39 (e) and (f), 45, and 47. Various factors influenced the juvenile justice policy in India.¹⁰

International accords such as the Beijing Rules, the UN Standard Minimum Rules for the Administration of Juvenile Justice, and the UN Convention on the Rights of the Child (CRC).

⁷ Brandt, D. (2006), *Delinquency, development, and social policy*, Yale University Press, London, 2006

⁸ Choudhary, R. (2005), *Law relating of juvenile justice in India*. Allahabad, Orient Publishing Company

⁹ *Id.*

¹⁰ The constitution of India, 1950

The Central Child's Act of 1960 prohibited the confinement of children in any circumstance, making it a crucial law for neglected and delinquent children in India. The child welfare board and children's courts were identified as two essential entities responsible for managing these children. The Indian federal government passed the Juvenile Justice Act in 1986.¹¹ Social legislation was created to provide protection, care, treatment, and rehabilitation for neglected and delinquent children. The adjudication of juvenile cases was also investigated.

Juvenile welfare boards were created for neglected children and non-offenders, while juvenile courts were established for offenders. In 2000, the Juvenile Justice (Care and Protection of Children) Act was enacted. It enabled the establishment of a uniform legal system for justice across the country.¹² The main objective of the new Act was to ensure that no individual under the age of 18 would be incarcerated. The Act also outlined specifications for the facilities and equipment necessary for the protection, care, and rehabilitation of children. The Act was amended in 2006 and 2010. The Juvenile Justice Act ensures that the juvenile adjudication and disposition system is child-friendly while addressing the needs for growth, care, protection, and rehabilitation. The Juvenile Justice Board, now known as the Juvenile Justice Board, can conduct investigations utilizing a multidisciplinary approach.¹³ The Child Welfare Committee was established in accordance with the Act to cater to the needs of children who are in danger.

ESSENTIAL COMPONENTS OF THE INDIAN JUVENILE JUSTICE ACT:

According to Section 2(I) of the Juvenile Justice Act, 2000, a juvenile in conflict with the law is a person under the age of eighteen (but over ten) who is accused of committing a crime on the date of the alleged offense. Indian lawmakers are in disagreement about the definition of a kid, causing uncertainty and conflict in the legal treatment of youngsters. Another group of children, referred to as "Children in Need of Care and Protection," is defined in Section 2(d) of the same Act. These children are identified as lacking a permanent abode, living situation, or visible means of support.¹⁴

These may include children who are homeless, child laborers, beggars, orphans, abandoned or

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

destitute individuals, children who have been exploited or trafficked, children who have physical or mental health issues, or children who have been impacted by violence or natural disasters. Although its effectiveness may be constrained, the Indian Juvenile Justice Act safeguards the rights of minors.¹⁵ The second cohort of children was incorporated in response to the JJ Act's preventive strategy. Criminal activity is more prevalent among children who are impoverished or who endure difficult circumstances. Serious life events possess the capacity to activate the offender switch, thereby transforming individuals into delinquents. Adhering to the principle that prevention is more effective than treatment, the JJ Act of India encompasses provisions catering to both juvenile offenders and individuals who pose a risk of engaging in deviant conduct. Juvenile offenders fall under the jurisdiction of the Juvenile Justice Board, whereas vulnerable children are under the supervision of the Child Welfare Committee. Different establishments cater to these two cohorts of children.¹⁶ The Juvenile Justice Board is composed of two social workers, of whom one must be a minimum of one, and a metropolitan judge or judicial magistrate of the first class.

Legislative provisions mandate the establishment of a special juvenile police unit at each police station. It is ideal that every member of the staff possesses training in child psychology or demonstrates sensitivity towards matters concerning children. It is impermissible to hold a joint prosecution with adult defendants when a juvenile is charged in addition to one or more adults.¹⁷

In India, the Juvenile Justice Act imposes limitations on the apprehension of minors and guarantees the offender the entitlement to parole, regardless of the gravity of the offense. Handcuffed juvenile offenders are not admissible in informal proceedings before the Juvenile Justice Board, and government officials and police officers do not require proper attire. The criminal's identity remains undisclosed to the public, and news organizations or publications are prohibited from publishing said name. Following the conclusion of the trial, the offenders are placed in observation homes or other specialized facilities.¹⁸

The purpose of children's homes is to provide shelter and care for children in need. The child-friendly efforts launched by the Indian government demonstrate a commitment to provide

¹⁵ Kumari, V. (2017) The Juvenile Justice (Care and Protection of Children) Act 2015- Critical Analysis, Universal Law Publications

¹⁶ Tyagi, M. (2016) Analysis of Juvenile Crime, Economic and Political Weekly, 51 (51): 17- 21

¹⁷ *Id.*

¹⁸ *Id.*

rehabilitation options for young criminals rather than putting their lives at risk. Every provision aligns perfectly with the concepts and practices of juvenile law.¹⁹

THE JUVENILE JUSTICE BOARD:

The Juvenile Justice Board is a judicial entity tasked with the management of cases pertaining to children in conflict with the law, specifically those who have been arrested²⁰ or charged with an offense. This independent judicial body adjudicates minors accused of minor, serious, or grievous offenses because they are not eligible to appear in a traditional criminal court.

The board's principal responsibility is to supervise the provision of care, treatment, protection, rehabilitation, investigation, and final decision-making pertaining to the developmental requirements of offenders who are adolescents. JJB is comprised of two social workers, one of whom is a woman, and a Chief Judicial Magistrate or Metropolitan Magistrate with a minimum of three years of experience. At each phase of the proceeding, the board ensures that the parents or guardians of the accused juvenile are duly informed. They ensure that the rights of every child are safeguarded and promote the accessibility of legal assistance for juveniles via legal service institutes. Fundamentally, JJB is responsible for supervising and coordinating every facet of the investigation into a juvenile offender.²¹

Regarding the 2012 Delhi gang rape and murder case (*Mukesh & Anr. vs. State for NCT of Delhi & Ors*),²² according to the JJ Act of 2000, the juvenile offender received a sentence of three years in a reformation facility. Following the Supreme Court's decision in December 2015 to uphold the Act's legitimacy, the Delhi High Court declined to increase the accused's sentence. Due to the miscarriage of justice that ensues, the victim's relatives and the broader public organize a sizable protest. The Juvenile Justice (Care and Protection of Children) Act, 2015, was subsequently passed by the government as the Juvenile Justice (Care and Protection of Children) Bill, 2014. This amendment completely revised the JJ Act and made a number of other enhancements that strengthened the juvenile justice system. The Act's primary objective is to guarantee that a young person accused of a crime is held accountable through counseling as opposed to punishment. The Act has designated the subsequent attributes:²³

¹⁹ Vadackumchery, J. (1996) Police and delinquency in India., APH Pub. Co. New Delhi

²⁰ *Id.*

²¹ *Id.*

²² AIR 2017 SC (CRIMINAL) 899

²³ *Id.*

- Children who were orphaned, abandoned, or surrendered were classified following the passing of this Act.
- Provide a detailed explanation of the authority and responsibilities of the Child Welfare Commission and Juvenile Justice Board.
- The Act categorized crimes into three groups: minor (up to 3 years of imprisonment), severe (3 to 7 years of imprisonment), and heinous (up to 7 years of imprisonment).
- Appropriate mechanism for the adoption of orphaned, abandoned, and surrendered children.
- Compulsory registration of childcare facilities. For serious offenses, individuals aged 16-18 are considered adults. Differentiate between children requiring care and protection and children involved in legal conflicts.²⁴

Subsequently, various policies, organizations, and legislation for child welfare were established, such as the National Child Labor Scheme, the National Commission for the Protection of Child Rights, the United Nations Convention on the Rights of the Child (UNCRC), the Child Labor (Protection and Regulation) Act, the Protection of Children from Sexual Offenses Act (POCSO), and the POCSO Amendment Act 2019.

The Lok Sabha has passed the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021,²⁵ which aims to enhance laws for the adoption and protection of children. The 2021 Amendment transferred the authority to grant adoption orders from the civil court to the District Magistrate to expedite outstanding adoption proceedings.

CAN A MINOR BE PROSECUTED AS AN ADULT?

Individuals aged 16 to 18 who are accused of serious criminal offenses and undergo trial may be subject to prosecution as adults according to the JJ Act of 2015. Heinous crimes are defined by the law as those that carry jail penalties exceeding seven years. Potential offenses encompass rape, rebellion, murder, theft, people trafficking, acid attacks, drug trafficking, and more.²⁶

²⁴ *Id.*

²⁵ *Id.*

²⁶ Agarwal, D. (2018). JUVENILE DELINQUENCY IN INDIA- LATEST TRENDS AND ENTAILING AMENDMENTS IN JUVENILE JUSTICE ACT. PEOPLE: International Journal of Social Sciences, 3(3), 1365–1383

The Act mandates that the Board, psychologists, psychosocial workers, and other specialists assess juvenile offenders before they can be tried as adults.²⁷

The examination examines the juvenile's propensity for murder, the specifics of the offense, and the offender's understanding of the consequences. The JJ Board must evaluate within three months. If the juvenile offender understood the consequences, they could be directed to the Children's Court. The Children's Court will determine whether the offender will be prosecuted as an adult according to the Code of Criminal Procedure. They must guarantee equitable trials and create child-friendly settings when making decisions. Once a juvenile is brought before the Board, a "First Summary Inquiry" is conducted, and the Board decides to either close the case, send the juvenile to the Child Welfare Center, release the juvenile on bond under probation officers, or place the juvenile in an observation home.²⁸

RIGHTS OF JUVENILE OFFENDERS:

The rights encompassed within this category are the following: the ability to cross-examine witnesses, maintain one's silence, obtain a transcript of the trial proceedings, exclude juvenile cases from juries, secure legal representation, present evidence, file an appeal, have parents or guardians present at hearings, and ensure fair and expeditious trials. In addition, any juvenile convicted of a crime is eligible to petition for anticipatory bail, which may be granted by the Court of Session or the High Court pursuant to Section 437 of the CrPC. In order to prevent juveniles from being treated as serious offenders, the Juvenile Justice Act of 2000 grants them bail provisions, protection from incarceration, the elimination of disqualifications associated with convictions, and separate proceedings from non-juveniles.²⁹

CONCLUSION

The objective of the Juvenile Justice (Care and Protection) Act is to reduce the incidence of criminal activities committed by individuals aged between 16 and 18. Various causes, such as inadequate parental supervision and education, are contributing to the rapid increase in juvenile delinquency. This Act provides minors with many rights to protect them and allow them to access

²⁷ Crime in India. (2014). National Crime Records Bureau, Ministry of Home Affairs, Government of India, New Delhi.

²⁸ *Id.*

²⁹ *Id.*

the legal remedies stated.³⁰

In the juvenile justice system in India, as well as according to international standards, minors cannot be prosecuted in the same manner as adults. A minor is deemed *doli incapax*,³¹ indicating a lack of *mens rea*, which means they are incapable of understanding the consequences of their actions. Considering this rationale, juvenile justice law, rather than adult criminal law, regulates how juveniles are treated. They are exempt from imprisonment or capital punishment.

According to Indian law, State Parties must promote setting a minimum age below which a child is considered unable to commit a crime, as stated in Article 40(3)(a) of the CRC. As to Section 82 of the Indian Penal Code, 1860, a child under the age of seven is not considered legally responsible. Criminal liability begins at the age of seven. According to Section 83 of the IPC, 1860, a child between the ages of 7 and 12 who lacks the maturity to comprehend the consequences of their acts and was uninformed that their activities were illegal cannot be charged with a crime. There has been a concerning increase in juvenile delinquency in Delhi, the capital of India, and other regions of the country. There are nationwide concerns about children participating in serious crimes such as murder, attempted murder, kidnapping, and abduction.³² Discussions and arguments after the December 2012 Delhi gang rape, commonly known as the Nirbhaya case, centered on the juvenile justice system's lenient treatment of severe offenses. The revelation that youngsters are capable of violence similar to adults prompted a reassessment of how juvenile offenders are identified and handled in India. The National Crime Records Bureau (NCRB) statistics shows an increase in juvenile offenders, especially in the 16–18 age group. The NCRB data below illustrates the trends in juvenile offenses.³³

SUGGESTIONS

Potential strategies for mitigating the problem of juvenile delinquency in India may be suggested. The Indian government has undertaken progressive and audacious measures in an effort to address the issue in question. However, implementation of these measures requires improvement. Although a multitude of juvenile justice laws have been enacted, their enforcement is not consistently maintained. It is imperative that the Juvenile Justice Board members acquire

³⁰Dey, Mousumi (2014). Juvenile Justice in India. *International Journal of Interdisciplinary and Multidisciplinary Studies*. 1 (6): 64-70

³¹ *Id.*

³² *Id.*

³³ *Id at 5.*

specialized training in child psychology and other pertinent fields to enhance their proficiency in these domains. A specialized police unit is established at each police station to address juvenile-related issues. In actuality, these specialized units are non-operational. When reports of neglected children or juvenile delinquency are received by the police, the department struggles to effectively handle the situation as planned.

The police personnel exhibit a deficiency in their sensitivity towards emergent challenges. Robust strategies ought to be employed to guarantee the efficacious enforcement of legislation pertaining to juvenile delinquency in order to comprehensively confront the matter. Supervising the operations of shelter homes and observation houses is of the utmost importance. Frequently, these areas designated for juvenile rehabilitation encourage the juveniles to engage in additional illicit activity. Rather than effectively confronting the matter at hand and offering counsel to the occupants, numerous correctional facilities cultivate an atmosphere that reintegrates youths into a life of criminal activity or delinquency. A considerable number of ostracism occupants commit serious offenses. Rehabilitative and reformatory methods necessitate a nuanced approach. Awareness and community participation regarding juvenile delinquency are crucial. The implementation of preventive measures is vital to the operation of the juvenile justice system. When society is aware of the challenges they face, individuals can make a significant contribution to the rehabilitation of neglected and underprivileged children. Informal organizations, such as registered residential associations, may provide support in the reporting of concerns pertaining to adolescents who display deviant or difficult-to-control behavior. As stated previously in this paper, families serve as pivotal agents of social control and socialization. Collectively with other fundamental social organizations, societies can engage in preventive measures more effectively.