



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

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PUNISHMENT UNDER JUVENILE JUSTICE: A COMPARATIVE STUDY IN INDIA AND THE UNITED STATES

AUTHORED BY- ANURAG SIGOTIYA

ABSTRACT

Juvenile justice refers to a legal system designed to manage youngsters, basically under the age of 18. Previously, there was no distinction between child and adult; both were treated equally, but with the evolution of law and jurisprudence, it was accepted that both were different mentally, physically, and in maturity level, and most of the decisions of the child were dependent upon the adult member of the family. So, when any offence was committed by the child, the court tried to deal with rehabilitation rather than punishing him, and that is how the court tried to provide justice to the juvenile.

This comparative study of India and the United States helps us to understand how juvenile law evolved during that time and on what basis punishment is given to juveniles in the two different countries and the reasons behind such an approach of punishment based on historical evolution and legal framework.

Through this comparative analysis of the two countries, we come to know about the difficulty faced by both countries in dealing with juveniles with the help of case studies and data analysis. Further, it also describes the similarities and differences in giving punishment to the juvenile.

The outcome of this paper helps us to gain a deeper understanding of how juvenile law develops with the change in society, what are the different majors taken by the two different countries in dealing with juvenile offenders, and what is the best approach taken by the country to handle juveniles effectively.

key word - Juvenile delinquency, Juvenile justice, Rehabilitation

INTRODUCTION

Juvenile justice refers to the system in which we try to provide justice to a juvenile who committed a crime unconsciously without knowing the result of the act. This system is rooted in the concept that juveniles do not have enough maturity and experience to comprehend what is wrong and what is right. That is the basic reason the juvenile justice system focuses more on rehabilitation, assistance, and direction than punishing the juvenile. Furthermore, it is based on the concept that mistakes are made by human beings, and that is how human beings begin to learn and grow in their lives. We consider juveniles in the stage of learning, and sometimes it can be assumed that they can make a mistake. That does not mean we should punish them; it is better to give them a chance to restart their lives by providing proper direction, guidance, and rehabilitation.

Even in the Indian Penal Code 1860, liability for children is provided in the chapter on "General Exemptions" under Sections 82 and 83. Where the child is not liable for the offence committed by him.

The concept of "DOLI INCAPAX" is provided under Section 82 of the IPC, which states that an offence committed by a child under 7 years of age is not an offence. It is a conclusive or irrebuttable presumption of law, which means no evidence can be given to disprove it. Here, the law presumes that a child is incapable of committing any offence, and any act committed by him is not considered an offence.

The concept of "DOLI CAPAX" is provided under Section 83 of the IPC, which states that an offence committed by a child above 7 years of age and under 12 years of age is not an offence. It is an inconclusive or rebuttable presumption of law, which means evidence can be given to disprove it. Here, the law presumes that if a child does not have enough maturity to understand the consequences of the act¹ committed, he is not liable for the offence, but on the other hand, if he is mature enough to understand the consequences of the act, he may be punished for the act.

Under the juvenile justice act, it is provided that any offence committed by a person under the age of 18 is an offence if he is mature enough to understand the consequences of the act, and he

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will be sent to Remand Home instead of going to jail. and when he completes his punishment, his record will be destroyed.

Meaning of Juvenile

A juvenile is described as a minor who does not reach the age of maturity, which is basically under the age of 18. If a juvenile commits any offence, they are treated differently from the ordinary law because it is a highly disputed topic that must be handled gently; otherwise, it may destroy the life of any juvenile. That is the reason the juvenile justice system usually focuses on rehabilitation, direction, and guidance.

According to the Beijing Rules, also known as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, "a juvenile is a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner that is different from that of an adult."

JUVENILE DELIQUENCY

Juvenile delinquency refers to a minor under the age of 18 involved in criminal activity and antisocial behavior. In such activities, it's involved theft, drug abuse, and criminal behavior. The main causes of juvenile delinquency are family disputes, social changes, peer pressure, financial conditions, mental conditions, and less access to education. If we are able to provide good education and financial support, we can reduce the rate of juvenile delinquency.

REASON BEHIND THE INCREASING OF JUVENILE DELIQUENCY

The following are some reasons why juvenile delinquency is increasing.

1: FAMILY DISPUTE

Today's family disputes have become a major reason to influence juvenile delinquency. It affects the child mentally, physically, and emotionally. due to which they turn out to be more aggressive, and then they involve themselves in delinquency. Domestic violence and a lack of parental guidance also led to juveniles becoming involved in delinquency.

2: LACK OF EDUCATION

Education also plays a major role in the development of any minor. Lack of education is a contributing factor to juvenile delinquency. Minors who do not receive proper education involve themselves in delinquency.

3- POVERTY

Poverty is also a major factor in juvenile delinquency. It was often seen that minors who were from poor backgrounds were easily influenced, which led to delinquent behaviour.

4: FINANCIAL SUPPORT

Lack of financial support also plays a significant role in juvenile delinquency. Minors who saw poverty very nearly made money the first priority in their lives, and they were ready to do anything for money, which led to delinquent behaviour.

5: LACK OF AWARENES

Many minors who don't have proper awareness about the law and the consequences of the act engage in delinquency without any fear of the law, which also leads to delinquent behaviour.

HISTORICAL EVOLUTION OF THE JUVENILE LAW IN INDIA

The juvenile justice system has a long history in itself; from ancient times until now, it's highly changed. In ancient and mediaeval times, juveniles were treated in the same way as adults. The punishment that is prescribed for adults is also prescribed for the juvenile; there is no difference in the law between them.

but during the time when law is evolved, there is a need to have a different law for both juveniles and adults because both have a different mental level of understanding and juveniles cannot be treated in the same way as adults. and now, with the help of jurisprudence and a new legal system, we draw the line between juvenile and adult law.

The **Apprentices Act of 1850** was the first act of India that dealt with juveniles. This act gives the court the power to deal with juveniles differently from adults and try to refine them through rehabilitation rather than punishing them. This act was the foundation for gently dealing with

juvenile cases.

The second act was the **Reformatory Act of 1876**. The main object of this act was to add some more provisions related to juveniles that are beneficial to them.

The third act was the **Children's Act of 1960**. This act will make a huge change in the history of juvenile justice, as its main focus in rehabilitation is providing a good education, mentorship, and other training programmes. and this act sends juveniles to the remand home instead of sending them to prison, where juveniles learn how to behave in society and how to control their aggression.

The fourth act was the **Juvenile Justice Act of 1986**. This act made the biggest difference in the age of juveniles; in the case of boys, it was 16 years, and in the case of girls, it was 18 years, and this was rectified in the Juvenile Justice Act 2000, where the age of "juvenile or child" was 18 years for both girls and boys.

JUVENILE JUSTICE ACT 2000

In the year 2000, India passed a revolutionary law that is the Juvenile Justice Act 2000, which basically deals with juveniles who are under the age of 18. This act made a huge difference in the law made for adults and the law made for juveniles. Before this act, juveniles and adults were treated by the same law. This act comes to help youngsters who are immature and committed the offence without knowing the result of the act by providing direction, guidance and rehabilitation rather than punishing them so they can become a prudent man for his life and a harmless person for society.

JUVENILE JUSTICE ACT 2015

The Ministry of Women and Child Development suggested an amendment to the Juvenile Justice Act 2000. As a result, the original Act was revised, and the Juvenile Act 2000 was replaced with the Juvenile Act 2015.

It happened because of the backdrop of the DELHI GANG RAPE CASE, which happened in 2012. Among the many offenders, one was a minor; he was 17 years old, due to which it was difficult to punish for such a heinous crime. The further ministry of women and child

development also saw the example of increasing the number of crimes, especially between the ages of 16 and 18. This is the major reason that the Ministry of Women and Child Development proposed an amendment to the Juvenile Justice Act 2000.

The J.S. Verma Committee was constituted in order to recommend amendments to the Juvenile Justice Act 2000, and this committee recommendation stated that it is not inclined to reduce the age of juveniles from 18 to 16 years, but instead, for heinous offences, a special category of 16 to 18 years would be created, and under some special circumstances (heinous crimes), they can be tried as adults.

HISTORICAL EVOLUTION OF THE JUVENILE LAW IN THE UNITED STATE

FIRST JUVENILE COURT

The first juvenile court was established in "Denver "and Chicago" in the year 899. It is the foundation of the juvenile court that tigers the demand for juvenile justice.at the international level. Since that time, the juvenile court has started to make a difference between adults and juveniles.

Before the establishment of the first juvenile court, matters relating to the juvenile were dealt with according to the doctrine of "parens patriae," which means the state could act as parents. So, the court is allowed to get involved in the matter relating to the juvenile and provide justice that is in the best interest of the minor.

After the establishment of the first juvenile court, the urge to open a juvenile court in another state also arises. In the year 1925, nearly 50 states opened a juvenile court. The new court will decide the matter on the basis of the root cause behind the offense. The new court faces many problems, such as a lack of experience as an advocate in the matter of juveniles, and judges also criticise the fact that they have huge power to decide the case.

The first act relating to juveniles was passed in 1974, which was **the Juvenile Justice and Delinquency Prevention Act (JJDP A)**. It makes a huge change in the history of juvenile justice. This act provides proper guidelines and directions relating to the juvenile and also focuses on the best interests of the juvenile. After this act, it was reauthorized several times to make a fine law

for juveniles.

CASES

1- Pratap Singh v. State of Jharkhand and Anr.

In this case, the Hon'ble Supreme Court held that the maturity of a person is counted from the date on which a wrongful act was committed and not from the date on which cognizance was taken by the Magistrate when the dispute related to the maturity of a person.

2- Jitendra Singh, Babboo Singh & Anr.v. State of U.P. (lawless Appeal No. 763 of 2003)

In this case, the court decided that anyone declaring that they were juvenile on the day on which the offence was committed wedded need to bring this claim before the trial court or the high court as soon as possible. Still, this does not prevent someone from bringing up this issue before the Supreme Court if it is not made for some reason. The JJ Act is salutary legislation, and a procedural defence (analogous to staying to file a claim for maturity) would not help someone file a claim under the Act. Still, the onus of substantiation is with the person making the claim in order to establish a primary base for initiating an exploration into the plea of maturity.

Comparative Study of Juvenile in India and United State

The approaches to juvenile justice and punishment in the USA and India differ significantly in terms of legal frameworks, the treatment of juvenile offenders, and the philosophy behind punishment and rehabilitation.

LEGAL FRAMEWORKS

USA: The legal framework of juvenile justice in the US focuses on rehabilitation and then the punitive measures taken by the court on the basis of the acts done by the youngsters.

INDIA: The legal framework of juvenile justice in India is mostly focused on rehabilitation, guidance, and directions rather than punishing them because it's based on the concept that human beings make mistakes, and we need to give them a chance so they can fix their mistakes and come into society as prudent men.

Age of Responsibility:

USA: In the USA, different states have different criteria by which a person can be tried as an

adult, but the most common range is 16- to 18-year-old youngsters who can be tried as adults. For serious crimes, some states permit the transfer of juvenile cases to adult courts, and for that reason, the age of the juvenile is different in each state of the USA. For example, in Alaska, the age at which a juvenile case can be transferred to adult court is 16, in Arkansas, it is 14, in California, it is 16, and in Colorado, it is 15.

India: As per the Juvenile Justice Act, people under the age of 18 are considered to be juveniles. Under Section 15 of the Juvenile Justice Act 2015, it is described if a minor under the age of 16 to 18 committed a heinous crime (mean punished by 7 years of imprisonment) so he can be treated as an adult, which is decided by the juvenile justice board on preliminary assessment and is based upon the following things:

1. Mental capacity to commit the offence
2. physical capacity to commit the offence.
3. Ability to understand the consequences of the offence.
4. Circumstances under which allegedly the offence was committed.

In the case of BARUN CHANDRA THAKUR vs. MASTER BHOA 2022

In this case, the consequences of a child being tried as an adult are described.

- A sentence can go up to life imprisonment.
- The disqualification attached to the conviction shall be removed for a child tried by the board, but the same protection would not be available to a child tried as an adult.
- Relevant records of conviction can be directed to be destroyed for those tried before the board, but such a benefit would not ensure a child tried as an adult.

Punishment vs. rehabilitation

USA: In major state of the United States, courts give harsh punishment rather than rehabilitation. It was because of the historical shift that the previously united states also gave preference to rehabilitation and provided guidance. but due to the change in society towards modernization, the crime rate done by juveniles was also increasing, so to keep in mind public safety, the court leans towards the punitive major rather than rehabilitation.

India: In India, rehabilitation is the main concern of the courts. Its main aim is to give a new chance to the juvenile so he will not make the same mistake again. Basically, India is a developing

country. The reason behind the increase in juvenile offences in India is mainly related to hunger, lack of education, financial support, and family disputes, so that is why India is more tilted towards rehabilitation.

The United States and India have distinct approaches to juvenile justice. The United States indicates state-by-state differences in punitive approaches, whereas India is primarily concerned with rehabilitation and the well-being of juvenile offenders.

CONCLUSION

By comparing the juvenile justice systems of India and the united state, we can come to the conclusion that both systems are, in some aspects, parallel and distinct in dealing with juveniles. Both nations focus on their first apprehension to deal gently with the juvenile by providing rehabilitation, guidance, and direction.

In India, the main focus of the juvenile courts is to provide rehabilitation because they believe that juveniles are immature and do not know the consequences of the act, and they can be refined by providing them with education, counselling, and skill-building programs. In India, courts try to find out the root cause of the offence and, according to that, give a punishment. Mostly, the root causes of offences in India are related to child labour, lack of education, and financial support. That is the reason India is more inclined towards rehabilitation.

On the other hand, the juvenile justice system of the United States places less focus on rehabilitation and more emphasis on punitive measures. It was because of changes in society that the offences by juveniles also increased, and rehabilitation was not a good option at that time. So, to keep in mind the security of the society, the United States was more tilted towards the punitive major. In every state of united state, a distinct age is given to transfer the case to adult court, where punishment is the main concern of the court.

This study reflects how juvenile law evolved according to the needs of society and how it's going to help youngsters to refine themselves. Apart from this, both countries have different preferences for dealing with juveniles, but both countries use a balanced strategy to provide the best option for the juvenile. which, in the opinion of all the courts, is rehabilitation.