Journal of Legal Subjects
ISSN: 2815-097X
Vol : 02 , No. 05 , Aug-Sep 2022
http://journal.hmjournals.com/index.php/JLS
DOI: https://doi.org/10.55529/jls.25.1.4

Role of Juvenile Justice System in India

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Received: 16 March 2022 **Accepted:** 01 July 2022 **Published:** 03 August 2022

A juvenile is a person who has not attained the age of eighteen. Simple in words, a juvenile can be called as a minor. 'Juvenile', the word provides a negative approach to the people. So Juvenile Justice (Care and Protection of Children) Act, 2015 changed 'Juvenile' to 'child' or 'child in conflict with law'.

Abstract: India is a country where children are treated as the asset of parents and also the asset of nation. Therefore, it is the responsibility of both parents and the government to have a firm hand on the youth of the country. It is necessary for nation- building and the development of nation. A person is not an offender by birth. The person acquire through the conduct or experiences through his life. So it is needed to prevent them for committing crimes. A delinquent juvenile cannot be sentenced to imprisionment. There are both pros and cons of Juvenile justice system in India. There are many leading factors to juvenile delinquency, in which one of the basic is'Violence in their Social Circles.' In 2009 after the case Hari Ram v. State of Rajasthan & Anr., the court held that all persons who were below the age of 18 years on the date of commission of the offence even before the enforcement of Juvenile Justice (JJ) Act, 2000, would be treated as juveniles. The paper help us understand the concept of Juvenile Justice System in India and the need of it. The researcher used an analytical approach to understand different provisions of the JJ Act, 2000 to prevent the youth by providing care, protection, treatment, development and rehabilitation to neglected or delinquent juveniles.

1. INTRODUCTION

Juvenile means the person between the age of 16-18 years. To protect these persons who are in conflict with the laws in India, Juvenile Justice System has been introduced. It gives provisions for the juvenile who are in need of care and protection. First, Juvenile Justice Act (JJA) was introduced in 2000 in India. Then it was amended several times. It mainly dealt with the rehabilitation of minors and focused on the principles set out in UN Conventions.
The Juvenile Justice (Care and Protection of Children) Act, 2015 replaced the JJA, 2000. After the Nirbhaya incident (Delhi Gang Rape Case), a retributive approach has been adopted. As

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the number of minors increasing in committing the heinous crimes, so there was a need to update the Juvenile Justice Laws. As stated above, it was the necessity to adopt the system that was deterrent and reformative simultaneously. If a minor of appropriate mental capacity and capable to understand his actions as right or wrong, if not punished for his offences, influence others too for the same. Also, it widen the measure of care and protection of children by streamlining adoption procedures, several rehabilitation measures including institutional care like education, health, nutrition, de-addiction, treatment of diseases, vocational training, counselling etc.

The Juvenile Justice (Care and Protection of Children) Amendment Act, 2021 was passed to amend the various provisions of JJA, 2015. This amendment concerned the cruelty and abuse done to the children for non-cognizable offences at CCI[2].

Juvenile Justice Act, 2015

JJA, 2015 replace the Juvenile Delinquency law and the JJA, 2000. It makes the provision to allow trials of offenders between 16-18 years as an adult, especially for heinous crimes. It come with a new aspect of adoption which enabled the smooth functioning of adoption procedures of orphans, surrendered and abandoned children and made the Central Adoption Resource Authority (CARA) the statutory body for adoption-related matters. This Act has differentiated between juvenile and child, further divides the term 'child' into two categories:

- A child who is in conflict with law,
- A child who is in need of care and protection.

The Hon'ble Justice S. Ravindra Bhatt said in one of his addresses that the true equity, and justice of the society is how fairly it treats its children.

JJ Amendment Act, 2021

Juvenile Justice Amendment Act, 2021 was passed to amend various provisions of the JJA, 2015. The provisions include the offences that allow an imprisionment between 3 to 7 years as non-cognizable offences, and the district magistrates has the authority issue adoption orders to make the proceedings of the court faster. There are both pros and cons of this amendment. It is advantageous for the parents who are daily wage workers as either they are unaware how to report the crime to the police or not want to indulge in legal process as it would waste their time and money. In *Rishipal Singh Solanki v. State of Uttar Pradesh, 2021* the Hon'ble SC has summarized the principles relating the determination of claim of juvenility and JJ, 2015.

Here a term has been used a lot of time, that is **Claim of Juvenility**. So let us understand the meaning of this term. It refers that who can be considered as a juvenile. Most of the times this conflict arises between the parties that whether the accused is juvenile or not. Section 9 of Juvenile Justice Act, 2015 provides the right to accused to raise the claim of juvenility even on the trial or after the adjudication. In the case, *Rajni Bhati v. State of UP*, the court held that the report supportive of claim of juvenility, then that must be considered to be the conclusive proof of date of birth, but if there is any doubt, the court could order an inquiry for the determination of age of the accused. Children are the blessing of a nation and they have their long life to live and experience in this world. So if a country would not provide them justice, it might turn into bane for the nation. Therefore, most of the time question arises regarding the age of children and conflict between the parties for the age of accused.

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Which Theory of Punishment Should be Considered Against Juveniles: Reformative or Retributive

There are four major theories prevalent in the legal system. These are Reformative, Retributive, Punitive and deterrent theory. Here focusing on reformative and retributive, which should be considered against juveniles. Through ancient times, retributive approach was there against offences whether done by juveniles or adult. It refers the punishment should be proportional to the offence done. The saying *eye for an eye and tooth for a tooth* is fit for this type of punishment. Whereas reformative theory deals to reform the mind of offenders. A person is not a criminal from his birth, so it deals to change the mindset of that person and made him a good man. The latest amendment has broadly focused on reformative theory. It concerns on the education, counselling, vocational training etc. which is the necessity to change the criminal mindset of those children.

2. DISCUSSION

What affect the mindset of children that lead them to be an offender? There are many major concerns which contribute to juvenile delinquency. One factor come from the society. The way in which they are treated in society, schools and even in their families. Bullying in schools, unequal treatment in society, poverty, lack of education, family environment which directly affect their mind and leads them towards crimes. Parents are busy in their jobs, not giving precious time to their child, a lot of dependency of their child on mobile phones, internet, social media which affect their psychological health and also due to which cyber crimes are also leading. As the number of crime by juveniles is increasing day by day which has become a major concerning issue of the nation. It could only be stop with the collaboration of both parents and society. There should start a counselling and psycho therapy of children at an early age to prevent them in future to do crimes. Government should try to organize campaigns to aware the parents and society, also free counselling sessions should be there in schools by experts.

There is a necessity too to cut off from society, those children who are in conflict with law, otherwise it would inspire others to indulge in wrong activities. Although they are offenders but should be given education and proper rehabilitation to alter them, their mindset as they have a long future. In my opinion the latest amendment has made the necessary changes, precise for the protection and care of children. Is Deterrent an option to overcome this problem? Of course not, as children are not as much mature and could take a deterrent punishment in a wrong way. It could lower their self confidence.

They would feel fear in everything they do and confined them to a limited act.

It might become the major future concern in respect of development of nation.

Conclusion

Everything can not be left on the government. Some of the initiatives society itself has to take. Likely government has implemented Juvenile Justice System, so that society could prevent children to commit crimes. The JJA, 2021 amendment has a great approach in protecting juveniles from cruelty which they suffer in Juvenile Homes. It should not be taught to them or come to their observation that once an offender is always an offender. After discharging from juvenile homes they should be treated as before.

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