

A STUDY ON JUVENILE DELINQUENTS: AN INTEGRATED APPROACH

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ABSTRACT

A child is so tender that he can be easily molded and can be deceived for want of their capacity to decipher between right and wrong. The term juvenile delinquents have been in vogue till 2000 to address the problems concerning any child below the age of 18 years has committed an offence and with time this term has been done away with and a new terminology has been coined i.e. child in conflict with law. This paper shall be discussing the international perspectives and national laws related to the study of Juvenile and shall try to unplug the loopholes in the existing framework.

Keywords: Juvenile, Juvenile delinquents, International Laws, National Laws.

INTRODUCTION

Juvenile crime is not naturally born in a boy, but is largely due either to the spirit of adventure that is in him, to his own stupidity, or to his lack of discipline, according to the nature of the individual.

Robert Baden-Powell

Juveniles are generally defined as persons under the age of 18 and above the age of 10. An individual's age is usually established by testimony or a birth certificate. Each state and the federal government have unique laws defining the beginning and end age of juveniles. A juvenile who is alleged to have committed an offense may have their case heard in juvenile court. This is a type of civil court. It has different rules than adult criminal court. Juvenile court provides defendants with fewer rights than they would receive in an adult criminal court. Typically, juveniles have the right to a lawyer and an appeal.

International documents play an instrumental role in shaping the national legislative structure as it guides and paves their path for a proper internal governance and establishment of law and order in society. Conventions like Convention on the Rights of Child, 1989 is one such exemplary piece which throws light on the various contours of child, their overall development and recognition of their rights in all walks of life.

Various legal systems like India have been in constant conflict with the terms like child and juvenile and with constant effort it has endeavored to define it within the legitimate boundaries.

The Standard Minimum Rules are deliberately formulated so as to be applicable within different legal systems and, at the same time, to set some minimum standards for the handling of juvenile offenders under any definition of a juvenile and under any system of dealing with juvenile offenders. The Rules are always to be applied impartially and without distinction of any kind. However, when this is read in conjunction with Rule 4, gives a specific interpretation. The minimum age of criminal responsibility differs widely owing to history and culture. The modern approach would be to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of her or his individual discernment and understanding, can be held responsible for essentially anti-

social behaviour. In India, the quantum of variance between the conditions of all the juveniles is very high by the virtue of a huge gap between the socio-economic dimensions.

The Supreme Court held has said that

‘There are incidents where a child in the age group of sixteen to eighteen may have developed criminal propensities, which would make it virtually impossible for him/her to be reintegrated into mainstream society, but such examples are not of such proportions as to warrant any change in thinking, since it is probably better to try and re-integrate children with criminal propensities into mainstream society, rather than to allow them to develop into hardened criminals, which does not augur well for the future.’

The General Assembly of the United Nations adopted the Convention on the Rights of the Child on 20th November, 1989 which prescribes a set of standard to be adhered to by all the States parties in securing the best interest of the child.¹ The International instruments and conventions have contributed considerably to the issue of child rights and prevention of child abuse.² The International bodies like United Nations and UNICEF have always paid more emphasis on the development of Child.

Following are the International Instruments and Conventions that are signed by all the States of UN in order to protect the rights of Children:-

1. UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)
2. UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)
3. UN Rules for the Protection of Juvenile Deprived of their Liberty (Havana Conventions)

¹ Prof. N.V. Paranjape , Criminology , Penology with Victimology, page no 662 ,Central Law Publications, 17th edition,2017.

² http://shodhganga.inflibnet.ac.in/bitstream/10603/37610/9/09_chapter%203.pdf

4. Guidelines for the Action on Children in Criminal Juvenile System (Vienna Guidelines)

JUVENILE JUSTICE SYSTEM IN U.K

For the first time in 1908 Juvenile Courts were established in England under the Children Act, 1908. The primary duty of these courts was to provide proper care and protection to child and young offenders and take all the necessary steps to remove all undesirable surroundings around the offenders and to ensure reformation of the offenders by providing education and training.

1. *The Children and Young Offenders Act, 1933* confers the civil powers on the Juvenile Courts in certain important cases to look into matter. The Act also provides that any child and young person who have committed the crime should be tried in Juvenile Courts only. The Act also provides the establishment of Remand Homes.³
2. UK Legislation also came with the new Act that also deals with Rights of Juvenile Offenders. The Act came to know as *The Criminal Justice Act, 1948*; the Act provides certain class of security to young offenders by sending them to remand homes.

JUVENILE JUSTICE SYSTEM IN AUSTRALIA

In each Australian jurisdiction, except Queensland, a juvenile is defined as a person aged between 10 and 17 years of age, inclusive. In Queensland, a juvenile is defined as a person aged between 10 and 16 years, inclusive. Between the ages of 10 and 14 years, a further rebuttable presumption operates to deem a child between the ages of 10 and 14 incapable of committing a criminal act. A rebuttable presumption needs to be proven by the prosecution by proving the child to be sufficiently mature, and thenceforth, a contested trial may result in conviction. From 14 to 18 years, young offenders may be held fully responsible for their

³ Section 77 of the Act.

criminal acts but are subject to a different range of criminal sanctions than adults committing the same offences. Thus, countries such as the United Kingdom and the United States, though signatories to the same conventions that India is a part of, they have tweaked the mandate by choosing the middle path by punishing those juveniles who have committed heinous crimes the same as if they had been committed by adults.

JUVENILE JUSTICE SYSTEM IN U.S.A

The working of Juvenile Courts in U.S.A. is relatively less cumbersome as compared to the other countries. They follow an informal way in the process of trial of offender. In the first stage, the police officer in the charge of the case has the full discretion power either to keep the juvenile offender in the child custody or to immediately release him or to admonish the offender or to do the both. In the second stage police officer has to contact the Juvenile Courts to make them aware about the case and to take the matters into their hands.

Juvenile Offenders after the trial in court is being sent to Certified Schools or to the Children Homes if the order is passed by the court. As per the Juvenile Justice System in U.S.A. a juvenile is tried as an adult only in those cases where the age of the juvenile is close to adulthood as per the statutory provisions or any juvenile offenders who is found to be involved in repeated offences and is apprehended as a danger to the society.

JUVENILE SYSTEM IN INDIA

History of a juvenile carries a legacy in India as it has been battling with this concept since 18th century and to a larger extent it tried to settle in the year 2000 with the enactment of The Juvenile Justice (Care and Protection of Children) Act, 2000 which was the result of the influence of CRC 1989 and the repealing of an redundant law 'Juvenile Justice Act 1986.'

The Juvenile Justice, 1986 which repealed the earlier Children Act, 1960, aimed at giving effect to the guidelines contained in the Standard Minimum Rules for the Administration of Juvenile

Justice adopted by the U.N. countries in November 1985.⁴ The above mentioned Act consisted of 63 Sections, 7 Chapters and is extended to whole India except to the State of Jammu and Kashmir. The primary purpose of the Act was to provide care and protection, treatment, development and rehabilitation of the neglected juvenile delinquent.

The Juvenile Justice Act is built upon a model which addresses both children who need care and those who are in conflict with law. The definition of a child is governed by several rules and conventions that India is a signatory to. The United Nations Convention on Rights of child was ratified by India in December, 1992, thus binding India to define a juvenile to be under the age of 18. The Juvenile Justice (Care and Protection of Children) Act was enacted in year 2000 with an aim and intent to provide protection for children. The mentioned Act was amended twice – first in the year of 2006 and later in year of 2011 which were made to address the gap and loopholes in the implementation mechanism and to give the Act more teeth to deal with the changing scenario. A *juvenile* or a *child* is a person who has not completed 18 year of age while a juvenile in conflict with law means a juvenile who is alleged to have committed an offence..

Further, the increasing number of cases of juvenile crimes in the last recent years and frightful incident of “Delhi Gang Rape Case” has forced the law makers to come up with the new law. The major drawback of the previous Act was that it contained ill equipped legal provisions and malfunctioning juvenile system was also the major reason in preventing the juvenile crimes in India. The Act was replaced soon by The Juvenile Justice (Care and Protection) Act, 2015.

This Act aims to consolidate the laws relating to children alleged and found to be in conflict with law and children in need of care and protection by catering and considering their basic needs through proper care & protection, development, treatment, social- integration, by adopting a child friendly approach in the adjudication and disposal of matters in the best interest of children. The Act also focuses on rehabilitation of juvenile offenders through various child care houses and institutions.⁵

⁴ Prof. N.V. Paranjape, Criminology, Penology with Victimology, page no 673, Central Law Publications, 17th Edition, 2017.

⁵ <https://www.omicsonline.org/open-access/a-critical-analysis-of-juvenile-justice-act-and-system-in-india-2332-0761-1000296-95422.html>

In the end, I would like to state that the laws in India concerning Juvenile justice seems to be not so adequate when compared to developed countries as the approach of our justice dispensation system is more inclined towards reformation of the juvenile offender thus sidelining the very root of the problem. It is high time that we need to realize that only reformation model will not do any good to the evolving society as when the society evolves hence the thinking and mindset and overt conditions also evolve which impels the potential criminal or juvenile offender to commit a heinous crime, thus to unplug these loopholes it is warranted that the instead of suggesting a new law the already existing laws should be made more stringent with an improved implementation machinery and in addition to this, the conflict about the age of the juvenile for deciding the guilt of the said person should be put to rest by inserting concrete premise for the same.

The various models prevalent around the various legal systems for the determination of the guilt of the juvenile offender are to be approached for resolving this problem. Ranging from the Welfare model which found its history in US to Restorative Justice Model, the laws have travelled a long way and are on the verge of making few amends for the betterment of the vulnerable class so as to prevent them from falling prey to the mean society.