

# An Analytical Study of Juvenile Maturity and Heinous Crimes: A Re-Look at Juvenile Justice Policy in India

Suyog Sunil Kale

LL.M 4th Semester

School of Law, Sandip University, Nashik, Maharashtra, India

suyogkale17@gmail.com

**Abstract:** *In the last few decades, we are seeing that the children under the age of 16 years involving in original activities. The penal laws also states that only child between the age of seven to twelve age can be convicted, provided that, the act they have committed is a heinous crime and they have knowledge and has attained the sufficient knowledge to understand the consequences of the their act.*

*Day by day their numbers has increased. What are reasons behind to it. In this paper we try to find out, namely due to the upbringing environment of the child, economic conditions, lack of education and the parental care.*

*Generally the term child may be defined according to Indian majority Act as well as juvenile justice Act it means any person who has not attain the age of 18 years is called child. The most disappointing part is that, Children (especially under the age group of 5 to 7 years.) Now a day are used as tool for committing the crime as at that this stage their mind is very innocent and can easily be manipulated.*

*In modern era, the penal laws of most countries have adopted the principle of 'Doliincapy' which means of knowing that act there are committing is a crime.*

*In case of Mohini Jain V/s State of Karnataka the Supreme Court declared that right to education at all levels is fundamental right, covered under article 21A of the constitution. In the case of Unni Krishnan V/s State of Andra Pradesh, the Supreme Court held that primary education means the education upto the age of 14 years is a fundamental right, professional education is not*

*As we know, The supreme court of India is guardian of the Indian constitution. We discuss many cases and laws in this article. Childers are the future of any society and in turn they shape the world's future: that is why the issue of child labour is an area of concern for all policy-makers, social scientists, researchers and the judiciary.*

*We will discuss of "Nirbhaya Delhi Gang Rape case which happened on December 2012. The main reason and issue of the debate was the involvement of accused, who was just six months short to attain the age of 18 Years. The involvement of the accused in such a heinous crime of rape forced the Indian legislation to introduce a new law and thus, Indian Parliament came up with a new law which is known as "Juvenile Justice (Care and Protection), 2015.*

**Keywords:** Juvenile Justice Act, Right to Protection, Juvenile Justice (Care and Protection), 2015, Juvenile Justice policy in India

## I. INTRODUCTION

A Latin maxim that suits best for the Juvenile Justice system in India is 'Nil Novi Spectrum' which implies that nothing is new on this earth. There has existed a presumption in the whole world since the ancient period that the Juveniles should be dealt leniently because there exists a system of thought that says– Young folks generally have a habit to respond in a serious and prolonged frustration which is accompanied with aggressive approaches.

This act is very useful to protect the interest of child. In this paper has been tried to introduce latest examples and law related to juvenile justice system as well as the provisions of this act. Children are the foundation on which the dynamic and vibrant future of a nation shall be built. They are a nation's greatest asset.

Prior to the Juvenile Justice Act of 2015, 2000 and 1986, there existed the Children Act of 1960 that aimed to give effects to the international responses towards the issue of Juvenile Justice by which they provided a uniform policy that protected the interests and rights of a Juvenile and that looked at care, treatment, rehabilitation and development of a child per se. But with the recent developments in the international community and subsequent emergence of the involvement of Juveniles in crime, the Indian lawmakers are compelled to come forward with new, progressive, and stricter laws for the concerned Juvenile system in the country. As a result, the Juvenile Justice act of 1986 then Juvenile Justice act of 2000 and recently the Juvenile Justice act of 2015 was passed by the Parliament.

Every nation development is showing through the position of children in the society. Who have been considered as the wealth of the nation unfortunately because of improper care and misguidance children involve in criminal activities and because of that Child delinquency ratio is increasing very alarmingly all over the world. Children are playing most important role for the development, research, planning and welfare but regrettably it is not accordingly. In the face of the our constitutional goal for the protection and development of children. UN Declaration on the Rights of the Child 1959 is very important to understand the rights, and privileges of children.

The frightful incident of "*Nirbhaya Delhi Gang Rape Case*", on December 16, 2012 shocked the whole nation and many debates were started among legal fraternity and socialists. The main reason and issue of the debate was the involvement of accused, who was just six months short to attain the age of 18 years. The involvement of the accused in such a heinous crime of rape forced the Indian Legislation to introduce a new law and thus, Indian Parliament came up with a new law which is known as "*Juvenile Justice (Care and Protection), 2015*".

The Introduction of the Act has replaced the existing juvenile laws and has introduced some remarkable changes. One of the remarkable changes is juvenile under the age group of 16 to 18 years should be tried as an adult.

## II. METHODS

This Research Paper is Purely Based on Secondary Sources. This is done in order to comprehend the Idea of Juvenile Justice System and Juvenile Justice policy in India. The Research makes use of Secondary Sources of data, including journals, newspaper, websites, citations, and so forth.

## III. DISCUSSION

The Juvenile Justice (care and protection of children) Act, 2000 which has come into force in the Union Territory of Delhi on 2nd October 1987, envisages a comprehensive approach towards justice for children in situations of abuse, exploitation and social maladjustment. Under Juvenile Justice (care and protection of children) Act 2000, the following statutory institutions are working for the care, protection, treatment, development and rehabilitation of neglected and delinquent juveniles.

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 law. The major drawback of the Act was that it contains 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*

### *The Juvenile Justice( Care and Protection) Act, 2015.*

The Juvenile Justice Act of 2015 replaced the Juvenile Justice Act of 2000 in order to establish a more robust and effective justice system that incorporates both deterrent and reformatory approaches. The new act recognizes that the approach towards juveniles should be different from that of adults. It emphasizes the need to provide juveniles with space for transformation, reformation, and improvement, which requires a specialized justice system.

Thus, the new act i.e. the Juvenile Justice (care and protection of children) Act, 2015 focused on a Juvenile friendly approach of adjudication and disposition of matters.

Some of the salient features are as follows:

Section 2 (12) of the Juvenile Justice (care and protection of children) Act, 2015 gives the definition of the Child, meaning thereby that a child is a person who hasn't completed the age of 18 i.e. he/she is below 18.

The Act has given a classification regarding the term 'Child' namely "Child in need of care and protection" and Section 2 (13) of the Juvenile Justice (care and protection of children) Act, 2015 that talks about "Child in conflict with law".

Introduction of Juvenile courts, meaning thereby that special courts were to be established that will be trying the Juvenile offences only, like that of the NDPS courts, courts dealing with POCSO, etc.

The following points from the many mentioned in Section 2 (14) of the Juvenile Justice (care and protection of children) Act, 2015:

Those whose guardians or parents are were unfit or uninterested in taking care of the child.

Those who are were found performing works that are in contravention to the labor laws.

Ones who have the imminent threat of marriage before attaining the specified lawful age.

The meaning of adoption has also been specified in the Act through which the rights an adopted child stands recognized.

### **Difference between Juvenile and Child**

A person under the age of full legal obligation and responsibility is a minor or a person who is below the legal age of eighteen years is minor. A child who is accused of crime and is not tried as adult and is sent to Child Care Center whereas juvenile is a person between age group of 16-18 years. In general sense both the term has same meaning but however difference lies in context of implications in the eyes of law. Minor implies young and teen persons whereas juvenile either indicates immature person or young offenders.

### **International Concerns for Juvenile**

The immensity of the problem of juvenile delinquency has been engaging the attention of penologists at international level also. The international Penal And Penitentiary Commission worked successfully on the prevention of crime and treatment of offenders until October, 1951 and repeatedly stressed on the necessity of rationale and humane treatment methods which could avoid the need of keeping juvenile offenders in prison in order to disassociate them from the criminal world.

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

UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)

UN Rules for the Protection of Juvenile Deprived of their Liberty (Havana Conventions)

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

Those whose guardians or parents are were unfit or uninterested in taking care of the child.

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### **Juvenile Justice System in UK**

The UN Convention on the Rights if the Child stipulates that children should be protected from custody whenever possible and when deprived of liberty should be treated with humanity and respect. In Article 37 of the convention it is stated that imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time.

*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

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 USA**

The establishment of the first Children's Court of Law in Chicago in 1889 represented a major innovation in juvenile Justice.

A juvenile in the United States may be tried in criminal court rather than in juvenile court in any of the following circumstances:

- (1) state laws mandate such processing for certain offenses within a set age range (statutory exclusion),
- (2) prosecutors decide on a criminal proceeding with limitations based on offense and age (prosecutorial discretion), and
- (3) the juvenile court judge decides to waive the case within limits based on offense and age (judicial waiver).

It is commonly assumed that such transfers result in harsher punishment for juveniles, but research has shown that the likelihood of some form of punishment is greater in the juvenile than in the adult justice system.

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. According to 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 proved danger to the society.

### **History of Juvenile Justice System in India**

It was stated that as long as children are allowed to suffer there is no true love in the world. The minors were exempted from the punishments and the fines because there had to be a difference in the level of understanding of a 8 year old and an 18 year old. Article 39 forms a part if the directive principles of the state policy. Clause (e) of Article 39 provides inter alia, that the tender age of children is not abused. Clause (f) stipulates that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that youth are protected against exploitation and against moral and material abandonment.

In present era, a movement for the special treatment of juvenile offenders has started throughout the world including many developed countries like U.K., U.S.A. This movement has been started around the 18<sup>th</sup> century. Prior to this, juvenile offenders were treated as same as other criminal offenders. **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. 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 main objectives of the Act were:

- The act basically laid down uniform framework for the juvenile justice in country in such a way that it protects the right and interest of juvenile.
- It talks about the machinery and infra – structure for the care, protection treatment, development and rehabilitation of the juvenile offenders.
- It set out the basic provisions for the proper and fair administration of criminal justice in case of heinous crime done by juvenile offenders.

## **IV. FINDINGS**

### **Present Juvenile Justice System In India**

In recent years, there has been a significant increase in crimes committed by children aged 15-16. The reasons behind these crimes are often related to early-life experiences, dominant masculinity, upbringing, economic difficulties, and lack of education. The Juvenile Justice System in India is built on three key assumptions:

Young offenders should not be brought before regular courts but should instead be guided and corrected through various means.

Juvenile offenders should not be subjected to punishment by the courts; instead, they should be given an opportunity to reform and reintegrate into society.

The trial process for children in conflict with the law should focus on non-penal treatment, utilizing community-based social control agencies such as Observation Homes and Special Homes.

These principles form the foundation of the Juvenile Justice System in India, emphasizing rehabilitation and reintegration rather than punitive measures for juvenile offenders.

### **Juvenile Justice Board**

There shall be a constitution of Board for the purpose of inquiry and hearing in the matters of juvenile in conflict with law. The Board shall consist of Principal Magistrate and two social workers, among whom one should be a woman. The Act provides that under no circumstances the Board can regulate and operate from regular court premises. The decision taken by the Principal Magistrate shall be final.

### **Special Procedure of Juvenile Justice Board:**

The Act has provided the procedure against the juvenile offender. Following are the main special procedure –

The proceedings cannot be initiated on a complaint registered by the police or citizen

The hearing must be informal and should be strictly confidential.

The offenders should be kept under Observation Home after detention.

The trial of juvenile in conflict with law shall be conducted by lady Magistrate.

A child in conflict with law may be produced before an individual member of the Board, when Board is not sitting.

### **Juvenile justice and Constitution of India**

The Constitution is the basis of framing any law. Any law which is framed should not be in violation with Constitution. It is the supreme power. Constitution has given certain rights and duties to its citizens. When the Juvenile act is framed, these Constitutional rights and duties are taken into consideration so that the Act should not violate the rights of children and the state would be able to perform all its duties which are mentioned in Indian Constitution. The rights and duties in the Constitution regarding children are as follows

1. Article 14- Right to Equality.
2. Article 15(3) It provides the state to make special laws for women and children
3. Article 21A- Right to free and compulsory education to all the children aged between 6 to 14 years of age.
4. Article 24- Right to be protected from any hazardous employment under the age of 14 years.
5. Article 39- Right to be protected from Human Trafficking and forced Labour .
6. Article 39(f) - Children should be given opportunities and facilities to develop in a healthy manner and they must be protected against exploitation.

Article 47-Right to be provided with proper standard of living and good nutrition

Therefore, the law makers while drafting the Juvenile Act, 2015 has consider all the necessary provisions laid down by the Constitution so that child's rights are protected in all the possible ways. This is for the same reason that Chapter IV of the Act lays down the provisions for betterment of the juveniles and has focused on the Reformation and Rehabilitation of Juveniles in all the possible circumstances.

### **Criminal Justice (Reformative or Punitive) and Juvenile**

Crime is a multidimensional problem which is so complex in nature that it effects not only the offender but leads to uneasiness among the masses at large and is on increase throughout the world. Juvenile delinquency is a negative behavior of children which might result in crime and legal actions.

The increasing crime rate is raising a question that whether the juvenile can be tried as an adult or not? The act itself answer to the question that no juvenile offender who comes under the definition of "child with conflict with law" as defined under sub – section 13 of Section 2 of the Act shall not be tried as adult and shall sent to Child Care Centre or any Rehabilitation Centre (till the offender attain the age of 21 years and then he or she may shifted to the jail or prison).



### **REFORMATIVE APPROACH**

The theme of reformatory theory in juvenile justice system revolves around the welfare of the young offender. The mental faculties of a young child are not developed and they are not rational in general that's why they involve in the activity which they find attractive. Reformatory theory is a humanistic approach that helps to shape the mind of the juvenile before reaching certain level of maturity and understanding. It includes the practices which are beneficial for the long run. It works on making them a better person without leaving psychological and social scars. Over the past years, reformatory ideas have brought a positive change in the juvenile justice system such as reducing detention, improving conditions of confinement, utilizing evidence based program that reduces recidivism, improving mental health services, etc.

### **PUNITIVE APPROACH**

Preventive theory has always been prevalent over the years. The nature of punitive theory in juvenile justice system is to deter the commission of crime in the future by punishing the young offenders or eliminating them from the society in order to make sure the stability in the society. It is focused on the betterment of the society and not concerned with the welfare or the development of the juvenile. It is a traditional approach with narrower view and absence of analytical analysis of juvenile rights. It is somewhere important to consider the preventive ideas so that the liberty could not be misused.

The present juvenile system in India is created on believe that juvenile offenders can be reformed and rehabilitated, sending them to bars or prisons will going to reaffirm their status and identity as "criminals". Now the question arises is that there is no guarantee that juvenile offenders will get reformed and will not show their anti – social behavior again.

The act is totaling focusing on the reformation rather than penalization. Penalization will definitely will create a deterrent effect on the juvenile and increasing rate of crime by juvenile will slow down.

### **V. CONCLUSION**

After observing all facts and rules of the juvenile justice Act,2015.We can say that is a reformatory steps in area of juvenile justice.The main object of this Act is not kill the offender but also rehabilitation in society. The increasing rates of juvenile crime in India in very concerning issue and need to be focused upon. Although government has laid various legislation and rules to stop the incidents of juvenile crimes but the present laws on juveniles is not creating a deterrent effect on the juveniles and thus the results are not fruitful and legislative intent is not accomplishing.

In 1992 the supreme court is also decided in case of Gaurav Jain v/s Union of India AIR 1992 SC 292 that separate school and hostel should be established for juvenile offenders.According to Article 32 of the Indian Constitution Right to Education and Right to Health is a fundamental Right of juveniler. Therefore it is a landmark Judgement for reforming juvenile activities.In this Act all efforts have been made to remove deficiencies in Act of 2000. The aim of juvenile justice should be that any reaction to juvenile offenders should always be in proportion to the circumstances of both is the offender and offence. Then only we could proudly say our children are assets of our nation on whom we can stake our bright future. Otherwise they would become a liability to not only the parents but to the whole society.In end of the conclusion we can say that the Act is very useful and needful to protect interest of child who have involved in criminal activities due to evitable reasons.

Juvenile justice system is no doubt an integral part of our society and it is formed to help the young people who have mistaken. To conclude with, in my opinion the pace of the Indian legislation towards the retribution theory is praiseworthy and showing positive results towards the development of the young minds and it should be continued in the future.

the Juvenile Justice (Care and Protection of Children) Act, 2015 is a significant legislation in India that focuses on the care, protection, and rehabilitation of children in conflict with the law. The Act strikes a balance between the rights of the child and the need for justice and rehabilitation. It emphasizes a reformatory approach for juvenile offenders while ensuring their protection and reintegration into society. The Act has been instrumental in addressing the challenges surrounding juvenile justice and promoting a child-centric approach within the legal system. It plays a crucial role in safeguarding the rights and well-being of children involved in the criminal justice system and serves as a foundation for

their rehabilitation and future prospects. It establishes Juvenile Justice Boards and Child Welfare Committees to handle cases related to children in conflict with the law. It also prioritizes the principle of diversion, aiming to prevent the unnecessary criminalization of children and promoting their reformation through various measures, including counseling, education, skill development, and community-based programs. The JJ Act, 2015 places a strong emphasis on the protection and rehabilitation of child victims and witnesses. It ensures their privacy, dignity, and safety throughout the legal process. The Act also prohibits the disclosure of the identity of the child in media or public domain. Comparative research shows that a passive and lenient juvenile justice system may produce the same level of youth offending as an active and punitive one. Evidence that some programmes work should not be used as a platform for expanding the scope and activity of the juvenile justice system.

## VI. SUGGESTIONS AND RECOMMENDATIONS

In fulfillment of the legal provisions suggested for the Juvenile, this is the duty of state to follow the suggested steps:-  
To create more comfortable conditions to juvenile delinquency.

For the reduction and prevention of juvenile delinquency and the reform of delinquent children we need to advise local, public and private agencies to work together for the fulfillment of the needs of juveniles issues.

For the reduction and prevention of juvenile delinquency and the reform of delinquent children we need to involve the roles of schools and local courts in the favour of juveniles.

Also promote the NGO's to help the state government in the making of policies for the juveniles.

We have to build the mechanism for the controlling on jails and rehabilitation centers for the monitoring of juveniles

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