



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

JUVENILE JUSTICE SYSTEM IN INDIA

- *Srivaasthi M*

INTRODUCTION

Children who come in conflict with the law because of an alleged offense need to know that life offers them a second chance. A Juvenile Justice System protects children's rights, treats children differently from adults and focuses on rehabilitation which reduces the potential of trauma while teaching accountability for actions. This system presents a new path for positive change it is an opportunity for young offenders to develop life skills while learning how to be a productive member of the society. Juvenile justice can only be realized through community, compassion and support.

EVOLUTION OF JUVENILE JUSTICE IN INDIA

1850: The Apprentices Act was passed, to keep juveniles out of jails. The Code of Criminal Procedure of 1898 extended imprisonment at the reformatory schools for the juveniles until they completed the age of eighteen years, and then prescribed that they be placed on probation till they are twenty one.^[1]

1920: Establishment of the first juvenile court in Bombay under the Children Act of 1920 as it called for a separate judicial system for those below 16 years old.

1986: The Juvenile Justice Act replaced the Children's Act which stated that juveniles who were in conflict with the law needed care and protection, rather than to be treated as ordinary criminals. It introduced Juvenile Welfare Board and Observation Homes.

2000: The age of juvenile delinquency was raised from 16 to 18 years through amendment of

the Juvenile Justice Act to comply with UN Convention on the Rights of Child emphasizing rehabilitation and reintegration.

[1] Chakraborty, Tapan, Delinquency and Juvenile Justice System in India, The Juvenile Justice Systems, 2nd Ed, (2002).

2015: Following the Nirbhaya case, there was an amendment allowing juveniles between 16-18 years to be tried as adults for heinous crimes but rehabilitating and reintegrating those who committed other offenses. ^[2]

2021: Provision for foster care and adoption was made for children in need of care and protection. Holistic rehabilitation and social reintegration measures were strengthened while elevating roles of Juvenile Justice Boards and Child Welfare Committees

LEGAL FRAMEWORK OF JUVENILE JUSTICE SYSTEM IN INDIA

The Juvenile Justice (Care and Protection of Children) Act, 2015:

Salient Features:

1. According to the 2015 act a youth is redefined as under 18 years of age.
2. Provides offender and victim rehabilitation through individualized treatment and reintegration.
3. It aims at correction rather than mere punishment of juvenile offenders.
4. Authorizes child welfare commissions to produce children within 24 hours of arrest.
5. Provides for the establishment of juvenile courts.
6. It focuses on rapid testing and individualized treatment of juvenile offenders.
7. Includes provisions for adoption of children both in and out of wedlock.
8. Regulates the establishment of special homes for the rehabilitation of juvenile criminals between the ages of 16 and 18 years.
9. There are 14 fast track courts for speedy handling of cases involving children. This applies to cases of missing children and child victims of abuse.
10. Contains the centralized deployment resource authority. Its purpose is to provide a certificate of no objection to international adoption.

11. At least one agency should be established for each district to provide "protective assistance" to youth in crisis.
12. Introduce tougher penalties for crimes against children. This applies to child labour, child begging and sexual crimes against children.

[2] Mukesh & Anr v. State for NCT of Delhi & Ors. (2017) 6 SCC 1.

KEY COMPONENTS OF THE JUVENILE JUSTICE SYSTEM:

1. Juvenile Justice Board

It is a very unique judicial body created by the Juvenile Justice (Care & Protection of Children) Act to exclusively deal with matters pertaining to children in conflict with law. It is a bench consisting of one judicial magistrate and two social worker members. As per the mandate of section 15 of the Act, the board conducts preliminary assessment where a child in conflict with law, between 16 years to 18 years of age, is alleged to have committed a heinous offence and it may transfer him to Children's Court for trial as an adult.

2. Child Welfare Committee

A Child Welfare Committee is an autonomous institution in India formed to handle and resolve complaints relating to children who are either abandoned, orphaned, voluntarily given away by parents, or lost and who are in need of care on issues relating to growth, protection, treatment, development, and rehabilitation, and includes provision of requirements for their basic needs and protection.

ROLE OF THE INDIAN JUDICIARY

Sheela Barse v. Union of India (1986), In this case, a petition was filed asking the court to release children under 16 years of age kept in jails in different states. Information related to the number of existing juvenile courts, shelters, and schools, along with other information related to those children in the prison. ^[3]

In *Pratap Singh v. State of Jharkhand (2005)*, the Supreme Court held that the age of a juvenile should be determined based on the date of the crime's occurrence rather than the date of court production.^[4]

[3] *Sheela Barse v. Union of India*, JT 1986 136, 1986 SCALE (2)230

[4] *Pratap Singh v. State of Jharkhand*, AIR 2005 SUPREME COURT 2731

In *Hari Ram v. State of Rajasthan (2009)*, the Supreme Court ruled that the Juvenile Justice Act, 2000, which raised the age of juvenility from 16 to 18 years, applies to all pending cases after its enactment.^[5]

In *Salil Bali v. Union of India (2013)*, the Court clarified that juveniles who attain majority during their sentence must still complete their sentence and are not to be freed solely because they have reached adulthood.^[6]

In *Shabnam Hashmi v. Union of India (2014)*, The Court held that parents can adopt under the Juvenile Justice Act, 2000, regardless of religion, caste, or creed.^[7]

CHALLENGES

Young offenders lack effective rehabilitation and reintegration programs which may make them not to have good access to education, job training and mental health services that would increase their risks of recidivism.

Juvenile facilities are overcrowded and underfunded as a result they lead to poor living conditions, inadequate care, and a lack of skilled personnel such as social workers and counsellors.

Juvenile offenders suffer from stigmatization in the society leading to isolation, mental health challenges, low self-esteem hence making their rehabilitations efforts challenging.^[8]

Some juvenile homes and observation houses do not have basic amenities like proper sanitation, nutritious food and medical attention necessary for the welfare of young offenders.

Delayed justice because of courts being overloaded with cases, few professionals in

the field or lengthy processes negatively impacts on rehabilitation while increasing detention without proper support.

[5] Hari Ram v. State of Rajasthan, (2009) 13 SCC 211

[6] Salil Bali v. Union of India, AIR 2013 SUPREME COURT 3743

[7] Shabnam Hashmi v. Union of India, AIR 2014 SUPREME COURT 1281

[8] Bhargav, Divangi, Juvenile Justice System in India- A Critical Analysis (2024).

CONCLUSION

It is imperative that challenges have to be addressed holistically in terms of improved infrastructure, comprehensive rehabilitation programs and strong legal safeguards to foster a sense of belonging among the young offenders so as to realize their full potential.

REFERENCES

1. *Bhushan Yadav, Juvenile Justice System, the society and much needed improvisation of rehabilitation homes in India, IJLMH, vol 4, 2021.*
2. *Agarwal.D, Juvenile Delinquency In India- Latest Trends And Entailing Amendments In Juvenile Justice Act, International Journal Of Social Sciences, (2018).*
3. *S.K. Bhattacharyya, Juvenile Justice System In India.*
4. *Journal of the Indian Law Institute, Vol. 23, No. 4, (1981),*
5. *Kumari, Ved, Juvenile Justice in India, Juvenile Justice in Global Perspective (2015).*
6. *Venudhar Routiya, A Critical Study of Children under Juvenile Justice System in India, IOSR journals, (2016).*
7. *Meghna Vesvikar & Renu Sharma, The Juvenile Justice System in India: Observation Homes and Current Debates, (2016)*
8. *Suman Kakar, Juvenile Justice and Juvenile Delinquency in India, 2015*