

“Juvenile Justice Board”

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Abstract

The Juvenile Justice Board (JJB) holds a crucial position within the juvenile justice system, emphasizing rehabilitation over punishment. This paper explores the organization, roles, and effectiveness of JJBs across different regions, addressing the challenges they encounter and offering suggestions for enhancement.

Keywords: Juvenile, Punishment, Challenges

Introduction

Before going into depth of this topic let first understand who is a Juvenile. Juvenile is an individual under 18 years of age is charged with a crime. A Child is defined as someone under the age of 18 years and if they engage in any serious or heinous crime, they are considered as juvenile.

Juvenile Justice Act 2015 was enacted by the Lok Sabha in May 2015 in response to the protest and their criticism. It was approved by the Rajya Sabha in December 2015. It abolished Juvenile Justice in 2000.

History of Child Delinquency Laws in India

As we know that most of the children in early age commit crimes together such as begging, street vending, theft etc. The participation of such a child in any criminal act is termed as delinquency. Before 19th century in young age child were treated as adult in court. Child below the age of 7 years were accused of a crime and sent to adult prison but instead of reforming them child will learn more about crimes.

In different States, there is no fixed age limit of a child.

In Bombay children Act 1948, child means a boy not completed the age of 16 years and female now not completed the age of 18 years like that during UP Children act 1948 a person under the age of 16 years was a child. In 1960, India exceeded the children act 1960 which was applicable to whole India including Union Territory except Jammu and Kashmir according to this act a child not completed the age of 14 years is a child. But due to the Standard Minimum Regulations UN has adopted Juvenile Justice Act in UN Conventions and that is why India have to repeal the children act 1960 and adopted Juvenile Justice Act 1986. The Children's act 1960 are entitled to protect children and juvenile offenders and offering education and mentoring.

The Juvenile Justice Act 1986 is followed because of United Nation Minimum Rules for the Administration of Juvenile Justice 1985 was passed to bring a consistent juvenile justice in India.

The Nirbhaya event in the Delhi gang rape case led to a punishment to juvenile justice. The Main role of the juvenile justice system in India is to correct juveniles through education and non – penal treatment through social control agencies like observation homes, special homes, and school.¹

Difference between Juvenile and Child

A person under the age of full legal obligation and his responsibility is a Minor and child means a boy who has not completed the age of 18 years is a minor. Juvenile is a person who is under the age of 16 to 18 years whether the juvenile is a boy or a girl.

A child being accused of crime is not tried as an adult and has been sent to child care centre whereas juvenile is a person between the age group of 16 to 18 years has been tried as an adult for the crime. “Minor implies young and teen persons and Juvenile implies immature persons and young offenders”.

JUVENILE JUSTICE SYSTEM IN INDIA

Before 1960, India has no consistent age of child delinquents. There is no consistent definition of child in states. Each states had its own Children Act, with different definitions of children.

But some things changed due to the rise of juvenile delinquency in India, children was aware about the western world and for their care free attitude.

The crime rates among juveniles had also risen from 6.7% to 7.0% as per the National Crime Records Bureau (NCRB).

Delhi had the sixth highest number of Juvenile Crimes, with more than 2,340 cases and Delhi had the highest juvenile crime rate, at 41.1 per lakh children. Maharashtra had the highest number of crimes committed by Juveniles, followed by Madhya Pradesh and Rajasthan.²

The most important case (Pune Porsche Accident) case of May 2024 where there was involvement of an accused who was few months short to attain the age of 18 years. In this case, A 17 Years old boy named Vedant Agarwal had visit two bars Cosie bar in Koregaon Park and Black Marriott in Mundhwa and when he was in a drunken state driven his Porche car in full speed and kill 2 IT Professionals in Kalyani Nagar. The accused were arrested by the Pune Crime Branch in connection with the blood swapping of a minor accused. But when his trial was undergone by the court, court about to know that the accused was a juvenile so this case was sent to Juvenile board and board about to know that he commit two murder when he was in a drunken state. It was a nationwide disturbance after the Juvenile Justice Board (JJB) granted bail to the accused on very lenient terms, including writing a 300-word essay on road safety.

¹ S. 2(35) of Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 2015 Act)

S. 2(13) of the 2015 Act

S. 2(14) of the 2015 Act

² <https://www.legalserviceindia.com/legal/article-3089-juvenile-justice.html>

<https://www.lawyered.in/legal-disrupt/articles/history-juvenile-justice-system-india/>

According to this act, Child means a person not attain the age of 18 years but the law adopted the principle of *Doli Incapax* which means that minimum age of a child is capable to do crime, according to this law in India is 7 years is considered to be incapable for committing crime, between the age of 7 to 12 there is presumption that innocence is given in favour of a child but if it is proved that crime was committed by a child then he can be prosecuted according to the new bill children from 16 to 18 years is liable for any heinous crime then that child can be tried as an adult after a general test that he/she has done the crime with his own knowledge and with adequate understanding about the crime and it's consequences.

This Act define Child into two categories: –

- Child in conflict with law – section- 2(13)
- Child in need of care and protection – section- 2(14)

The Juvenile Justice Board is the competent authority for children who fall under the category of “Child in need of care and protection” and child welfare committee is the competent authority for children who fall under the category of “Child in need of care and protection”.

This law also talks about three categories of offences by Juvenile:

- Heinous Offences
- Serious Offence
- Petty Offences

❖ Heinous Offence: This offence incorporates all of the following: Assault, Culpable Homicide, Resulting in Angry Hurt, Rape' kidnapping or abducting with the goal to subject to slavery, disposing of or buying people as slaves, Dacoits, robbery, Rioting, Housebreaking, Mischief by Fire, or any dangerous matter, any crime punishable in Chapter VI or XII of the Indian Penal Code, or any other crime.

❖ Serious Offence: – This Act provides that the Juvenile Justice Board will inquire about a child who is accused of a serious offence. Serious offences are the ones punishable by three to eight years in prison. According to the Bill, major offences would now include offences for which the maximum sentence is more than seven years in jail and the minimum punishment is not imposed or is less than seven years.

❖ Petty Offence: – Crimes for which maximum punishment is imprisonment up to 3 years. Assault, simple bodily harm, theft, forgery, and other offences fall into this category.

❖ There are some reasons that the child in the age of 7-12 years and 16-18 years commit crimes such as poverty, Family tradition, Addiction, Disease and disability and other minor causes.

The following are the sections of the IPC, under which an offence committed by a juvenile can be considered as a heinous crime:

S. No	Section in IPC	Provision under the Section	Punishment
1.	121	Waging or attempting or abetting to wage war against Government of India	Death or Imprisonment for Life
2.	195	Giving or fabricating false evidence with intent to procure conviction of offense with imprisonment for life or imprisonment.	Min 7 years
3.	302	Punishment for Murder	Death or Imprisonment for Life
4.	304B	Dowry Death	Min 7 years and can extend to life
5.	311	Punishment for thugs	Imprisonment for Life
6.	326A	Acid Attack causing permanent or partial damage/deformity	Min 10 years and upto life
7.	370	Trafficking	Min 7 years and upto life
8.	376	Rape	Min 7 years and upto life
9.	397	Robber, or dacoity, with attempt to cause death or grievous hurt	Min 7 years
10.	398	Attempt to commit robbery or dacoity when armed with deadly weapon	Min 7 years

Landmark Cases of Juvenile Justice Board ³ Ajay Goswami v. Union of India³

In this Case, which become treated the protection of minors from the press. The petitioner (Ajay Goswami) filed the case and request the court not to publish any kind of sexually exploitative materials regarding minors which is harmful for him/her. He was of the opinion that such material in the paper would harm the mental well-being of the child and fill the mind of the child with harmful thoughts. The judgement was delivered by Dr. Ar. Lakshmanan, Tarun Chatterjee and it was said that press council act, 1978 and section 292 of the IPC the newspaper agencies are already prohibited from printing any kind of obscene material.

³ <https://blogipleaders.in/juvenile-justice-system-india/> <https://www.writinglaw.com/juvenile-justice-system-in-india/>

Pratap Singh v. State of Jharkhand (2005)

In this Case, 18 year old appellant was involved in causing the death of deceased by way of poisoning. When he bought before the court of law he was 18 years old and when the offence was committed he was only just 17 years old. Then this case was transferred to juvenile justice court where his certificates were examined, and it was held that he was a minor when the crime was committed and then he was released on bail. The other party was unsatisfied with the condition and appeal was made to the additional session judge, wherein it was held that rather than in order to determine the age of juvenile, the date of production in court is to be considered rather than the date when the crime was committed.

The decision was affirmed by the High Court of Jharkhand that School Certificate is the best evidence in this regard. But Supreme Court said that date of occurrence of crime as the criteria to determine the age of juvenility rather than the date on which the person produced before the court.

Hari Ram v. State of Rajasthan (2009)

In this Case, a person named Hari Ram was accused of committing many criminal offences. The issue was related to his age whether the accused should be treated as an adult or juvenile. After the trial was started, the Additional Session Judge determine the age of accused which was 16 years on the date when the crime was committed. According to the 1986 act, then this case transferred to the Juvenile Justice Court in Ajmer, Rajasthan. The High Court rely on the testimony of the father and his medical reports and held that at the time of the commission of the offence, the accused was above the age of 16, and hence, excluded him from the scope of juvenile. However, the 2000 act increased the age of 16 to 18 years under which the child would be considered as the juvenile under this act.

The issue before the Supreme Court was which act would be applicable to the accused. The same act would be applicable in the present case and the accused would be considered as a juvenile.

Murli S. Deora v. Union of India

In this Case, the Supreme Court of India directed the Government to set up a separate Juvenile Justice System for the care and protection of children.⁴

Sheela Barse v. State of Maharashtra (1983)

In this Case, Child being accused of a crime that is punishable with imprisonment for a term of not more than 7 years, the Investigation must be completed within 3 months from the lodging of the FIR, and the trial must be completed within 6 months from the filing of the Charge Sheet.

Children must not be lodged in jail in any circumstance. Remand and Observation home must be set by the State Governments. If there is no accommodation in remand or observation home, then the children should be released on bail.

⁴ Juvenile Justice (Care and Protection of Children) Act, 2015

Supreme Court of India held that children should be protected under Article 21 of the constitution that is right to life and personal liberty.

Conclusion

Juvenile Delinquency is a socio-legal issue. The young era of our country is one of the most vital resources. This is the reason every government focuses more on the growth and development of children. The Juvenile Justice Act, 2015, is one such piece of legislation that works for the welfare of juveniles in order to reform them and reintegrate them back into society.

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