
THE JUVENILE JUSTICE SYSTEM

Aastha Pareek, Mody University of Science and Technology

Introduction

The juvenile justice system is the most reforming and enlightening system introduced and adopted by the people of the world. Many a times discussions on a broad level is done on the topic. The concept of juvenile justice was led by Great Britain in mid-19th century when the court obtained the power to intervene in children's cases to ensure their protection. It was introduced into India under the British regime. Previously, children were treated either by their families or by society in general. Later, a change was made and that change was crueler and more harassing for children. They were treated in the same way as hardened criminals and put in prison with them, which generally stopped their growth in general and were becoming more ill-minded.

Later, this problem was further highlighted and the Indian Constitution made some amendments and passed laws for juvenile offenders.

The first juvenile court was founded in Chicago in 1899 and later, this concept was also adopted by other countries as well.

Meaning of Juvenile Justice

Juvenile justice means what is just, fair and equitable for children or young people in the way they shape their personality in society. The term juvenile here refers to the young person, who is not an adult. Justice in general represents what is right and equitable. The juvenile justice system had been established to manage the processing and treatment of non-adult youth for violation of the law, while taking into account their best interests in such situations. The key function of juvenile justice is to protect children through consultation of appropriate treatment and to provide an environment in which they can develop a positive human personality. Juvenile justice is administered by the juvenile courts. If a child commits a criminal offence, the court acts in such a manner that the child receives for what he has done with soft and special care that helps him lead a decent life without affecting his rights in the future.

Functioning juvenile justice

Under the Juvenile Justice (Care and Protection of Children) Act, 2015 a Child means a person who has not attained the age of 18 years but this law adopted the principle of *doli incapex*, which means that the minimum age is necessary for a child to commit the offence. According to this law in India 7 years is considered to be incapable of committing a crime, between the age of 7 to 12 there is a presumption that innocence is given in favor of the child but if it is proved with evidence that the crime was committed by that child then he can be prosecuted. According to this new bill, the child from 16 to 18 if liable for any heinous crime then that child can be tried as an adult after a general test that he or she has done the crime with his knowledge and with adequate understanding about the crime and its consequences.

This law also talks about three categories of offenses by juveniles:

- i. Heinous Offences
- ii. Serious Offences
- iii. Pretty Offences

Every class of offense have different punishment but a juvenile cannot be given the death penalty and cannot be sentenced to life imprisonment.

Trial Process that how the Juvenile will be determined as an adult:

When a juvenile of 16 to 18 years of age performs any heinous crime, then the Juvenile Justice Board performs an inquiry, to determine the mental and physical capacity to commit a crime and to understand its consequences.

After that inquiry three types of orders may be recommended by Juvenile Justice Board:

- i. The juvenile can be sent for counseling or community service,
- ii. The juvenile can be sent to an observation home for a temporary or prolonged period;
- iii. The juvenile may be referred to Children's Court to determine whether to try the juvenile as an adult or not.

This Children's Court is a Sessions court notified under the Commission for Protection of Child Rights Act, 2005, this court determines whether the juvenile will be tried as an adult or will be

sent to an observation home for counseling. Every juvenile is not tried like an adult but it depends on the authority through the process of trial.

Juvenile Justice System in India

So the concept of juvenile justice in India travels back to the era of British rein. As already stated above before the British regime juveniles were treated by their family and society.

But later, juvenile justice laws were developed and enforced to protect the interest of the young minds. Today, the legislation governing this system is the Juvenile Justice (Care and Protection of Children) Act, 2015. If we go back to the history of the system reverts, the first legislation concerning juveniles was the Apprentice Act, 1850 which provided that children in the age group of 10- 18 years convicted by courts be provided with some vocational training which might help in their rehabilitation and rehabilitation. This was followed by the Reformatory School Act, of 1897. This was later followed by Children Act in Madras, Bengal, and Bombay from 1920 to 1924. It was subsequently also applied in the territories of the Union, but legislation for the entire nation as a single legislation could not be enacted by Parliament indicating why this subject of this legislation falls within the state list of the Constitution of India. In order to bring the functioning of the juvenile justice system in the country into line with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985), Parliament appears to have exercised its power under article 253 of the Constitution, in accordance with entry 14 of the Union's List, to enact legislation to ensure that all India complies with international obligations. On 22 August 1986, the Juvenile Justice Bill 1986 was introduced in the Lok Sabha. This 1986 bill was the result of Sheela Bharse v. Union of India. In this case, a petition was filed for the release of children under the age of 16. Since, there were few areas where this new Act was not able to hold the expectations regarding certain issues most importantly determining the age of a juvenile offender, the landmark judgment of the Honorable Supreme Court of India by a Constitutional Bench in the case titled as Partap Singh v. the State of Jharkhand, 2005(3) SCC 551. was pronounced addressing this issue in detail and held that "reckoning date for the determination of the age of the juvenile is the date of an offense and not the date when he is produced before the authority or in the Court". Thus, in the light of the aforementioned decision of the Honorable Apex Court, the law about this issue was amended. Later, the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 came into force on 22 August 2006.

Later in 2012, when the abhorrent and brutal gang rape incident in Delhi (Nirbhaya Rape case) happened, which led the entire country to criticize the management of the system and spilled the greys of the juvenile system as one of the people under the gang was juvenile. After such an act, there appeared to be a desperate need to change the current laws where 16-18 years of juveniles to be tried as adults. In response to such a situation, the Care and Protection of Children Act was passed by the Indian parliament.

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

- Helps provide a safe environment for growth.
- Helps protect young children mentally and physically, from adult offenders.
- Gives them psychological help and treatment.
- Provides adequate education.
- Helps in presenting the positive aspects of life.

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

- The young ones lose connection with their loved ones.
- All might not be able to work academically well, as could the scenario around.
- Detention centers foster institutionalization.
- Juveniles serving sentences in detention facilities are more likely to be detained than adults.
- In the direction of positive aid, some could be negatively affected.

Conclusion

The juvenile justice system is based on social welfare principles, namely: Protection of children's rights through emphasis on rehabilitation and reformation. And by way of comparison in recent years, it has managed to do so somewhat. But there are still many ways to drive things south. Since the laws are well written on paper, but they do not apply at every step and we should work on removing the gap between written and practical theories.

As the children in a certain age are not mature enough to understand their own actions and on the other hand some have negative personality who intend to do actions which are unlawful or in general, wrong. Due to these circumstances it is somewhere sometimes not easy to conclude the reasons behind the actions which leads to wrong decisions for the wrong person. These are

some flaws and certainly authorities are trying well to cover up every loopholes and the steps will one day do good.