



EVALUATING & RE-IMAGINING JUVENILE JUSTICE: FROM ITS INSTITUTION TO ITS FUTURE

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ABSTRACT

The Juvenile Justice System of any country is crucial in shaping the future of delinquent youth. Juvenile offenders are considered separately in the criminal justice system because of their age and developmental stage. Their immaturity, vulnerability, and capacity for growth are acknowledged, leading to a different approach in the legal treatment of their cases compared to adult offenders. When appropriate measures are implemented, it helps the delinquent child to constructively progress towards a positive future rather than propelling them to a lifestyle of recidivism. The first legislation in accordance with Juvenile Law was enacted in 1986 in pursuance of the Beijing rules 1985. This legislation was replaced in 2000 by the Juvenile Justice Act, 2000 after the Government of India ratified the United Nations 'Convention on the Rights of the Child' in 1992 to postulate the best interest of the child and focus on social re-integration and from then on, the act has been evolved. It has been more than 20 years, allowing us to evaluate the system, laws and policies and re-imagine the approach if needed. This paper will delve into the evaluation of current Juvenile Justice Policies, laws and the outcomes produced by it and re-imagine certain aspects of the Juvenile System to prioritize positive development and empower youth to build successful futures after they have served and come anew. The research would be based on quantitative and qualitative methods of research to investigate alternative ways of restorative justice, holistic support, and positive development principles through a critical review of current practices, research findings, and case study. Future of any country lies in the hands of its youth, so, it is an imperative for the community and government to look after its youth population and its mindset, to secure the country's future. A country with high rates of juvenile offenders with recidivism shows that there is a dire need to amend the system to adapt to such situation.

KEYWORDS: Juvenile, recidivism, India, re-imagine, evaluation.

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INTRODUCTION

Juvenile Justice, a principle based on providing rehabilitation rather than punishment for young offenders, has evolved over the years. The term “juvenile” has derived from the Latin word “juvenis” which means “young”, underscoring the attention given to meeting the distinct requirements of individuals below the age of 18³. Historically, the concept of reforming a young offender can be traced back to Pope Clement XI, who established institutions for reformation of young offenders/children in conflict with law. The first juvenile court was established in Chicago in 1899, paving the way for a centralised and considerate legal approach. England followed the path of rehabilitation by setting up a juvenile court in 1905 along with probation statutes, thus acknowledging the need to shield the young offenders from the same punitive measures as adults. The foundation belief behind the establishment of the juvenile justice system is to safeguard juvenile criminals from facing the same punishments as their adult counterparts. The juvenile justice system aims to implement corrective and reformatory measures by recognising the distinct psychology and malleability of young minds when compared to that of adults. This approach is crucial, especially in the modern era, where children are exposed to a plethora of information through social media and the internet, which in real sense, may not be appropriate for their age. In the context of juvenile delinquency, it is imperative to understand the factors contributing to young individuals engaging in criminal behaviour. Increased exposure and unsupervised access to multitude of information on the internet, coupled with societal changes, has influenced the thinking patterns of children.⁴

The Doctrine of *Parens patriae* serves as a symbolic representation that the state is the ultimate guardian of the well-being of the children. The doctrine encapsulates the nation’s paramount duty, answerability, and ultimate responsibility in safeguarding and protecting children at all costs. In recognising the economic potential of children and their pivotal role in shaping the nation’s future, it becomes crucial to address the societal attitudes towards them. Despite their economic potential, families sometimes view them as financial burdens, potentially resulting in inadvertent neglect of their nurturing and well-being, thereby increasing the risk of juvenile delinquency. In this context, the *doctrine of parens patriae* assumes heightened significance, as it underscores the state’s pivotal role not only in protecting children from external threats which is posed from the internet but also within the family unit.

Consider the scenario of sentencing a 16-year-old juvenile to jail. Serving the same punishment as adult offenders and placing them in the same institution as adult offenders without proper guidance and a chance to reform poses a greater risk to society after they have served their sentence. However, the current trends in recidivism show a high rate of young re-convicts along with multitude of new cases being registered for juveniles, somehow pointing towards the evaluation of the current Juvenile Justice System and the

³ Goldson, Barry. "Excavating youth justice reform: Historical mapping and speculative prospects." *The Howard Journal of Crime and Justice* 59.3 : 317-334.(2020)

⁴ Shivam S. Mallick et al., *A CRIMINOLOGICAL LEGAL STUDY ON JUVENILE DELINQUENCY*, 7 INDIAN POLITICS & LAW REVIEW JOURNAL (IPLRJ) 51–79 (2022).

possibility of considering strict deterrence in hand with rehabilitation while reimagining the Juvenile Justice System.

RESEARCH METHODOLOGY

The research has gathered existing data, detailing the current state of affairs as presented in relevant statutes. The authors, in line with other ex-post facto studies, have undertaken or planned similar endeavours. Additionally, the authors have endeavoured to elucidate the underlying causes of these occurrences. Employing analytical research methods, the authors have systematically utilised available materials, critically assessing information and data to enhance their evaluation. The paper relies on secondary data, books, news articles, National Crime Record Bureau reports, and reputable articles across various databases. Furthermore, the authors have consulted numerous judgments rendered by the Hon'ble Courts of India.

RESEARCH OBJECTIVES

1. To analyse the historical growth of Juvenile Justice System around the world and causes of the Juvenile Delinquency.
2. To analyse the historical growth of Juvenile Justice System in India.
3. To evaluate the current Juvenile Justice System in India along the lines of ideals set out in UNCRC & Indian Constitution, and analysis of data report of NCRB.

LITERATURE REVIEW

(Singh, 2019) The paper stands as a forefront of a contemporary debate surrounding the juvenile offenders in India. The author had critically examined the Juvenile Justice Act, 2015, focusing its departure from the development ethos of its predecessor, the juvenile justice act 2000. This study unveils systemic shortcomings, ranging from delayed enquiries to instances of abuse within juvenile institutions. The author raised a concern regarding the act's transformation from a rehabilitative to a managerial framework, with a particular focus on the transfer provision. This shift, could be a potential setback, diluting the sui generis status afforded to children within the legal sphere. The study further scrutinized the impact of subjecting juveniles to adversarial court proceedings, underscoring communication challenges and erosion of trust in legal representation. The paper advocated for a return to a treatment-driven system, emphasizing early interventions targeting the root causes of delinquency through bolstered educational and familial institutions. The author culminates in a call for judiciousness in trying juveniles as adults, proposing model rules to guide such decisions, and prioritizing rehabilitation over punitive measures for the holistic development of law-abiding citizens.⁵

⁵ Deepak Singh, *An analysis of section 15 of the juvenile justice act, 2015*, 8 CHRIST UNIVERSITY LAW JOURNAL 1–23 (2019).
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(Chitereka & Mangwiro, 2021) The paper studied the crucial impact of international laws on juvenile justice act globally. The study highlighted the instrumental role of international laws in ensuring equitable treatment for children involved in legal conflicts. Upon historical evaluation, it was revealed that before the emergence of juvenile justice systems in the late 19th century, young offenders were often perceived as trouble makers and societal threats. The United Nation Convention on the Rights of the Child (UNCRC), which was established in 1989, plays a significant role by defining children as individuals below 18 and obligating the state to establish robust child protective system. The study focused on 3 articles, namely article 37 and 40 of the UNCRC as it addressed the rights of the juvenile offenders, emphasizing protection against torture and inhumane treatment and advocating for the use of prison as the last resort. Moreover, the authors stressed upon the alternative measures and distinctive juvenile justice mechanisms which focused on rehabilitation by the UNCRC rather than punitive punishments. The study also focused on the United Nations Minimum Rules for Administration of Juvenile Justice, known as the Beijing Rules, which was enforced in 1985, as it further guides member states in tailoring juvenile justice system in a way that caters to the needs of the children in conflict with law, whilst considering the cultural factors and promoting the overall well-being of juveniles and their families.⁶

(Yao, 2021) This paper examined the influence of family dynamics on juvenile delinquency. Through a thorough examination of interview data, authors found a correlation between family dysfunction as a manifestation of offensive behaviour in juveniles. A notable factor in this dynamic is the absence of the father's role, elucidated by instances wherein there was a communication barrier, abusive father or conflicts which impeded their education. This absence, influenced by cultural and societal factors, can result in potential conflicts during a child's puberty. The study found that apart from absent fathers, poor communication between teenagers and parents further exacerbates the issue. Parents leaving their child before the age of 6, leads to disruption of early attachment relationships, thus resulting in increased probabilities of future offensive behaviour. Further, the study identified deviation of teenager's life courses, particularly during 16-18 as a manifestation of criminal offenses. This period is marked by the pursuit of personal space, friendships, onset of challenges, becoming a turning point where formation of coping strategies remains absent due to the lack of stable family, often leading to conflicts. The absence of internalised orders and family love contributions lead to detachment from normal life and emergence of offensive behaviours and criminal offenses. The study propounded on theory of self-identity, which was proposed by Erik Johnson as the connection between these deviations and adolescent quest for self-identity.

⁶ Chipso Chitereka & Vongai P. Mangwiro, *Juvenile justice and social work*, in PROFESSIONAL SOCIAL WORK IN ZIMBABWE, PAST, PRESENT AND THE FUTURE 180–207 (2021).

This theory underscores the impact of family dynamics on shaping behaviour during critical development stages, thus highlighting the need for a stable foundation to foster positive life outcomes⁷.

(Nanjunda, 2019) In the context of India, the social problem of delinquent children encompasses housing issues, peer group dynamics, limited medical services, social detachment, and insufficient personal relations. The emergence of a 'culture of indifference' and the prevalence of negative traits among modern youth, including aggression, violence, haughtiness, and irresponsibility, contribute to the deepening deviation among juveniles. Experts depict a nuanced view of contemporary society, pointing to factors that provoke youth towards criminal behaviour. In summary, juvenile delinquency is portrayed because of social changes and maladjustments, with age as an independent factor. Emerging aspects such as family status, violence within families, childhood violence, and peer group interactions further contribute to the vulnerability of young minds. The paper concludes that addressing juvenile delinquency requires a new normative approach and highlights the significance of rehabilitation. Success in rehabilitating juvenile delinquents' hinges on the commitment of various stakeholders involved in the rehabilitation process, emphasizing the need for changes and sacrifices to ensure the successful reintegration of the juvenile into society as a responsible citizen.⁸

ANALYSIS

The origins of the Juvenile Justice System (JJS) spans centuries and has been impacted by cultural, social, and legal events all around the world. This historical assessment tries to offer a succinct review of major events, treaties, and conventions relating to the JJS, showing both its critiques and advantages over time.

Prior to the nineteenth century, there was barely any distinction between juvenile and adult criminals. Children were frequently subjected to the same legal procedures and penalties as adults in this era. In ancient Rome, for instance, the *Doctrine of Parens Patriae* (the state as parent) arose, allowing the state to interfere in instances involving children. This method of approach, however, was more punishing than rehabilitative.

In the 19th Century, The New York House of Refuge became the first facility in the United States dedicated to the rehabilitation of juvenile delinquents in the year of 1825.⁹ It was formed in response to the efforts of

⁷ Feng Yao, *Retracted: Analysis on psychological and social causes of juvenile delinquency—a study based on grounded theory*, 60 INTERNATIONAL JOURNAL OF ELECTRICAL ENGINEERING & EDUCATION 2315–2329 (2021).

⁸ Devajana Chinnappa Nanjunda, *Juvenile Delinquents And the Juvenile Justice System In India: A Perception After the Fact*, 19 HUMANITIES, ARTS AND SOCIAL SCIENCES STUDIES 256–270 (2019).

⁹ Juvenile justice history, CENTER ON JUVENILE AND CRIMINAL JUSTICE, <https://www.cjcj.org/history-education/juvenile-justice-history> (last visited Jan 5, 2024).

Thomas Eddy and John Griscom, pioneering penal reformers, who founded the Society for the Prevention of Pauperism to oppose putting juveniles in adult jails and prisons and to advocate for the establishment of a new type of institution. The concept of a distinct legal system for juveniles gained traction in the **late nineteenth century**, leading to the founding of the first Juvenile Court in Chicago in 1899 under the judgeship of Judge Julian Mack. The goal of the court was to act *in loco parentis* and give rehabilitation rather than punishment. Other nations quickly followed the concept, including Canada and the United Kingdom (1908), France (1912), Russia (1918), Poland (1919), Japan (1922), and Germany (1923). The Progressive Era lasted from the **early to mid-twentieth century** as the juvenile court paradigm spread extensively during this era, thus Progressive Era. The Geneva Declaration on the Rights of the Child, adopted in 1924, emphasized the importance of specific attention in treatment and consideration for juveniles in the court system. With the 1959' Declaration of the Rights of the Child, the United Nations reinforced the concept of juvenile justice as a unique subject. By the **late twentieth century**, critics of the JJS had gained significant traction. In the 1980s and 1990s, the "*get tough on crime*" campaign resulted in legislative reforms that permitted more adolescents to be prosecuted as adults. This punitive trend ran counter to the juvenile court model's rehabilitative aims.

Criticism:

- Some believe that the early JJS's paternalistic approach lacked due process and frequently resulted in arbitrary conclusions.
- Despite these treaties and declarations at international level, imbalances in juvenile treatment continued.
- Lack of uniform processes and different definitions of who qualified as a juvenile within the jurisdiction of application.
- Concerns were being made concerning the justice and appropriateness of exposing minors to adult sentences as the number of transfers to adult court was increased.

Benefits:

- The introduction of juvenile courts was a significant step towards recognizing developmental distinctions between juveniles and adults.
- The emphasis on rehabilitation indicated a forward-thinking strategy to dealing with adolescent misbehavior.
- International declarations emphasized the need of protecting juvenile offenders' rights and well-being.

- The criticism sparked a rethinking of juvenile justice policies and Restorative justice programmes grew in popularity, with the goal of healing harm and reintegrating youth into their communities.

CAUSES

The juvenile justice system has a significant impact on the lives of young offenders, seeking not only to punish but also to rehabilitate and reintegrate them into society. This part dives into the reasons of juvenile criminality and recidivism in India:

- 1) **Socio-economic Reasons:** A major source of adolescent delinquency in India stems from the socio-economic factors of the person's family. The lack of basic necessities, along with a scarcity of economic prospects, frequently drives people to engage in criminal activity as a way of survival. According to the National Institute of Public Cooperation and Child Development (NIPCCD), 60% of juveniles in conflict with the law (JCLs) come from low-income families.
- 2) **Family Environment:** The family is the major social institution that shapes a child's development, it is the first place where a child learns and understands. Lack of emotional support, inconsistent discipline, and exposure to marital violence can lead to adolescents seeking belonging and identity outside of the home, frequently with disastrous results.
- 3) **Peer Influence:** Peer influence is a strong component in adolescent criminality. Adolescents are often vulnerable to peer pressure, and the urge to fit in can lead to illegal behaviour.
- 4) **Educational Obstacles:** Inadequate access to basic qualitative education, high dropout rates, and poor educational institutions can lead to juvenile criminal behaviour. Most of the juveniles were illiterate or had just completed basic school, and a handful had never even seen the inside of a school as per the report of National Crime Records Bureau, 2018.¹⁰
- 5) **Substance Abuse:** Substance addiction among adolescents is a big problem in India. Many adolescents are drawn into the cycle of addiction due to easy access to drugs and alcohol, as well as a lack of understanding and protective measures.
- 6) **Juvenile Justice System:** Contrary to popular belief, the juvenile justice system in some situations also leads to recidivism. Inadequate rehabilitation programmes, overcrowded jail facilities, and a lack of personalised care all fail to treat young offenders' underlying concerns.
- 7) **Urbanisation and Migration:** Rapid Urbanization & migration provide further issues. Juveniles who are removed from established support structures are more prone to delinquency.
- 8) **Media and Technology:** The impact of media and technology on adolescents cannot be overstated. Violence, unreasonable expectations, and mistaken notions of achievement all lead to aggressive behaviour and a proclivity for criminal behaviour.

¹⁰ See supra note 5

Prior to British rule in India, the acts of children were monitored through the personal laws of Hindu & Muslims, the parents were held responsible for the activities of their children.

Under British rule

The need for laws regulating offenses committed by children was addressed by enacting laws such as the Apprentices Act (1850), the Code of Criminal Procedure (1861) and the Reformatory School Act (1876 & 1897). The Apprentices Act, 1850 mandated child offenders between the age of 10 to 18, to be handled distinctly. Convicted children under this act were mandated to serve as apprentices in various businesses. The legal recognition of the special status of children offenders was established in the Indian Penal Code, 1860 wherein Section 82¹¹ of the act laid down that children below the age of 7 would not be held liable for any offences and those between age 7-12 were recognised as capable of understanding the nature of their actions under specific circumstances. The Code of Criminal Procedure, 1861 emphasized on rehabilitation over imprisonment and on its advent, introduced special trials for individuals under age 15. The Reformatory Schools Act, 1876 and 1897 addressed the laws regarding juvenile delinquency. This act mandated the detention of offenders in reformatory schools for 2-7 years. Upon attaining the age of majority, they would be sent to adult prisons.

Post-Independence from British rule

The juvenile justice system underwent various changes and reformations under the constitutional mandates and international treaties. Furthermore, the Indian Constitution¹² guarantees citizens certain fundamental rights, including the rights and welfare of children under Article 15(3), 21, 23,24, 39(e), 45, 47 and 51. The Juvenile Justice Act, 1960 was implemented to address the issue of juvenile delinquency and it was put under the regulation of the central administration. The Juvenile laws implemented were drafted so in accordance with international legislations such as the UNCRC. To align with the treaty UN Convention on the Rights of the Child which safeguarded the children's political, economic, social, and cultural rights, India ratified the agreement in 1992 and passed the Juvenile Justice Act, 2000. Under this act, the age of juvenile was increased up to 18 years and a limitation period of 3 years in detention was imposed for both boys and girls. However, there were various gaps which were identified in the Juvenile Justice Act, 2000¹³. To address them, the act was amended twice, in the year of 2006 and second in the year 2015.

2015 Amendment

After the disturbing case of Nirbhaya Gang Rape, the act's primary defect was identified as it lacked lawful

¹¹ Indian Penal Code, 45, § 82, (1860)

¹² The Constitution of India, 1950

¹³ Juvenile Justice Act, 56, 2000

insurances, making it difficult to stop adolescent violations. The Juvenile Justice Act, 2015¹⁴ was passed consequently to this case. The act addressed the issues of the Juvenile Justice Act, 2000 by allowing the individuals between the of 16-18 to be tried as adults in cases of heinous offences. They were to undergo preliminary investigation which was conducted by the Juvenile Justice Board who assessed if the offense committed is heinous in nature. If upon evaluation, it was determined that crime was severe, then the individual would be prosecuted as adults. The act had repealed the reformatory strategy which did not take into regard the seriousness of the offenses committed. Through the act, juvenile justice boards, children courts and welfare committees were established; however, ambiguity reigned in the authority of the juvenile justice board. As the board has discretionary authority to decide if the accused juvenile must be treated as an adult or was to be sent to the rehabilitation centres for reformation. There are no provisions to regulate this authority. Further, the act also made no distinction between juveniles who commit minor crimes and those who engage in severe offenses, thus disrupting the rehabilitative underpinning of the juvenile justice system. The act also lacked provisions which refrained the juvenile delinquents from recidivism. The primary objective of the act was to safeguard children, however, by treating minors over the age of 16 as adults for horrific acts undermines the rehabilitative effort of the juvenile justice system, as such treatment could develop juveniles into hardcore criminals. Such an approach is also in violation of article 14(3) and 15(3) of the constitution.

2021 Amendment

Several of the 2015 Juvenile Justice Act (JJA) provisions were changed by the Juvenile Justice Amendment Act of 2021. One of the modifications is the categorization of offences carrying sentences ranging from three to seven years in jail as non-cognizable offences. The phrase "*Claim of Juvenility*" is commonly used in legal contexts, particularly in cases where the Supreme Court has summarised concepts pertaining to the resolution of such claims under the Juvenile Justice Act of 2015, as in the case of *Rishipal Singh Solanki v. State of Uttar Pradesh, 2021*¹⁵. The allegation of juvenility basically has to do with defining who qualifies as a juvenile. The accused can raise a claim of juvenility during the trial or following adjudication, according to Section 9 of the Juvenile Justice Act of 2015. The court decided in the *Rajni Bhati v. State of UP*¹⁶ that a report proving a person's juvenility should be taken as definitive evidence of their birthdate. Nonetheless, if there are any questions, the court may mandate an investigation to ascertain the accused's age.

To evaluate the Indian Juvenile Justice System, its laws - Juvenile Justice (Care and Protection of Children) Act, 2015 (JJA) and principles along with its results that it are set out to be achieved, this chapter would delve into analysing whether the Indian Juvenile Justice System incorporates the ideals set out in the treaty

¹⁴ Juvenile Justice Act, 2, (2015)

¹⁵ LL (2021) SC 667

¹⁶ (2016) 12 SCC 744

United Nations Convention on the Rights of the Child (UNCRC) and Indian Constitution, then the comparison between the Belgium Juvenile Justice System, to that of Indian along with analysis of data reports of the NCRB on Juvenile Delinquency and Recidivism.

The United Nations Convention on the Rights of the Child (UNCRC)

Certain principles and ideals enshrined in the UNCRC have significant effect on the treatment of juvenile offenders. It is to be evaluated whether the Indian Juvenile Justice System incorporates all such ideals.

1. **Best Interests of the Child (Article 3):** The child's best interests should be the first priority in all acts and decisions involving children, including those within the juvenile justice system. The welfare concept is stated in Section 3 (iv) of the JJA, which stipulates that the best interests of the child must be prioritised at all stages of the juvenile justice system.
2. **Right to Life, Survival, and Development (Article 6):** Every kid has an inalienable right to life, and the juvenile justice system should help the youngster survive and flourish. Section 3 of JJA lays down various principles for its subjects.
3. **Non-Discrimination (Article 2):** All children have the right to be treated equally and without discrimination, regardless of race, colour, sex, language, religion, political or other opinion, national, ethnic, or social origin, property, handicap, birth, or other status of their parents. Section 3 (x) of JJA prohibits discrimination against any child on any basis.
4. **Right to be Heard (Article 12):** Children have the right to voice their opinions on any issue that affects them, including legal actions. Section 3(iii) of JJA provides for the Right to be Heard under Principle of Participation.
5. **Protection of the Dignity of the Child (Article 37):** No child should be tortured or subjected to any cruel, inhuman, or degrading treatment or punishment. Section 3 (ii) of JJA provides for the Principle of Dignity & Worth.
6. **Right to Privacy (Article 16):** Children have the right to privacy, which should be protected throughout the juvenile justice system. Section 3 (xi) of JJA provides for the principle of right to privacy and confidentiality.

So, Juvenile Justice System in India incorporates all the ideals of the UNCRC required for an ideal Juvenile Justice System in its laws.

THE CONSTITUTION OF INDIA

Certain principles and ideals have been enshrined in the Indian Constitution which guided the formation of JJA. It is to be evaluated whether the Indian Juvenile Justice System incorporates all such ideals and is not in conflict with any article.

Right to Equality (Art. 14): The Juvenile Justice System in India emphasises equality before the law. It

guarantees that every kid, regardless of their origin, is treated fairly and without prejudice under Sec. 3 (x) of JJA.

Child's Best Interest (Article 15(3), Article 39(e) and (f)): The notion of the child's best interests is central to the Juvenile Justice System. It assures that in the instance of a juvenile, decisions and actions are directed by their welfare and well-being under Sec. 3 (iv) of JJA.

Protection of Children's Rights (Article 21): Article 21 preserves the right to life and personal liberty and this is also enshrined under Sec. 3 (ii) of JJA.

Prohibition against Cruelty (Article 21): The Juvenile Justice System maintains the constitutional clause against cruel and inhuman treatment towards juveniles under Sec. 75 of JJA.

Right to Privacy (Derived from Article 21): The Juvenile Justice System respects juvenile offenders' right to privacy and seeks to protect them from unwarranted publicity under Sec. 3 (xi) of JJA.

Non-Discrimination (Article 15): Discrimination based on caste, religion, colour, gender, or place of birth is prohibited in the Juvenile Justice System. Under Sec. 3 (x) of JJA, it guarantees that all children are treated similarly, regardless of their background.

Principle of Rehabilitation (not explicitly mentioned in the Constitution but implied): The Indian Juvenile Justice System emphasises on the rehabilitation and reintegration of juvenile offenders into society, which aligns with the Constitution's greater purpose of social justice.

The Juvenile Justice System of India does follow the ideals of the Indian Constitution.

Evaluating the Juvenile Justice System progress based on NCRB' data on Juvenile crimes:

The analysis of the effectiveness of the current Indian juvenile system is based on NCRB data. Noteworthy trends in the data suggest a potential need for reformation in the Indian juvenile law.

1. Heinous Crimes:

- Murder cases committed by juveniles increased from 806 in 2021¹⁷ to 819 in 2022¹⁸.
- Kidnapping rates rose from 838 in 2021 to 906 in 2022.
- Rape cases witnessed a decline from 1137 in 2021 to 1037 in 2022.
- Culpable homicide decreased from 66 in 2021 to 53 in 2022.

2. Recidivism:

¹⁷ National Crime Bureau Report – Ministry of Home Affairs, 2021

¹⁸ National Crime Bureau Report – Ministry of Home Affairs, 2022

- The most alarming change in juvenile crime data was the increase in recidivism.
- Repeat offenses rose from 1187 in 2021 to 1539 in 2022.
- This sharp increase in recidivism raises concerns about the effectiveness of current rehabilitation and intervention programs.

3. Implications of Recidivism Increase:

- The consistent rise in severe crimes like murder and kidnapping suggests a need for urgent attention.
- The slight decrease in crimes like rape and culpable homicide does not offset the alarming increase in recidivism.
- This indicates that current rehabilitation and intervention efforts may not be adequate in preventing repeat offenses.

4. Need for Thorough Revision:

- The data points towards a need for a thorough revision in the existing juvenile system.
- Reformation in the Indian juvenile law should be considered to address the identified deficiencies.

5. Focus Areas for Reformation:

- The reformation should prioritize enhancing rehabilitation and intervention strategies along with stricter version of justice in case of heinous crimes.
- There is a need to address the root causes of juvenile crime to prevent recidivism effectively.
- A comprehensive approach to juvenile justice should be adopted, considering the nuanced nature of juvenile offenses.

These trends highlight the urgency for a comprehensive reimagination of the Indian juvenile law, with a specific focus on improving rehabilitation and intervention programs to effectively reduce repeat offenses and create a more robust juvenile justice system.

CASE STUDY: The Jubilee Hills Gang Rape Incident and Juvenile Justice

1. Incident Summary:

In May 2022, a 17-year-old girl was subjected to a gang rape by six people, five of whom were minors, in Jubilee Hills, Hyderabad, following her participation at a social event at a nearby bar.

2. Investigation and Arrests:

- A thorough investigation led by Banjara Hills ACP M Sudarshan revealed that the gang rape occurred near the Sri Peddamma Thalli Temple.

- The perpetrators used a Toyota Innova Crysta with transparent windows, employing temporary screens during the commission of the offence.
- Law enforcement apprehended all accused parties, including Saaduddin Malik, Umair Khan, and the underage offenders.

3. Along the legal lines under Juvenile Justice System:

- The Jubilee Hills police compiled a comprehensive 600-page chargesheet against the accused in July 2022, incorporating detailed statements from 65 witnesses, DNA reports, CCTV footage, and telecommunications evidence.
- The legal pursuit included an effort to have all minor offenders tried as adults, seeking the imposition of the maximum permissible penalties under the law.
- During the final week of July 2022, five Juveniles were given bail, causing public outrage and sparking arguments about the effectiveness of the juvenile justice system.
- On September 30, 2022, the Juvenile Justice Board decided to send four Juvenile to adult trial processes, while the fifth was scheduled for adjudication within the juvenile justice scope.
- This decision was driven by the need to hold the accused accountable for the seriousness of their illegal activities.
- In October 2022, the son of AIMIM MLA Mohammad Moazam Khan filed a discharge petition, professing innocence.
- In December 2022, during a hearing before the Juvenile Justice Board, he rejected the claims and indicated a desire to face a fair trial.
- On April 25, 2023, the Telangana High Court intervened, overturning the juvenile court's order designating one minor accused as an adult, requiring a new preliminary inquiry.

4. Comment

This development prompted significant questions about the implementation of juvenile justice principles in circumstances involving serious criminal offences. Further, questioning the rehabilitation aspect for heinous crimes by juveniles with significant *mens rea*, opening the door of debate on Punitive Measures considerations in Juvenile Justice System of India.

SUGGESTIONS

10 Points to Reimagining Indian Juvenile Justice System

The Reimagined Juvenile Justice System should anticipate an innovative approach that carefully balances the requirement for responsibility in serious juvenile offences with a strong commitment to rehabilitation.

1. Offence Categorization and Accountability:

Implement a tiered system for categorising offences based on severity, with a particular emphasis

on heinous crimes. In such circumstances, lower the age barrier for treating juveniles as adults to ensure a more mature understanding of accountability.

2. Specialised Fast-track courts:

Establish specialised fast-track courts for minor matters to accelerate judicial procedures while ensuring thoroughness. This provides a speedy settlement without jeopardising the evidence examination.

3. Mature Offenders Face Strict Penalties:

Introduce explicitly harsh and age-appropriate sanctions for mature juveniles who commit horrific crimes. This involves a careful examination of the nature of the offence and ensuring that the penalties correspond to the increased level of responsibility anticipated of any ordinary mature persons.

4. Comprehensive Rehabilitation Centres along with Educational & Skill Development Initiatives:

Establish cutting-edge rehabilitation facilities manned by skilled personnel. Customise rehabilitation programmes, such as education, counselling, and mental health care. In rehabilitation centres, emphasise excellent education and combine skill development programmes. Giving juveniles practical skills improves their chances of effective reintegration into society.

5. Community Involvement and Service Programmes:

Encourage community involvement by creating service programmes that enable young offenders to actively participate. This improves society while also instilling a feeling of duty and accountability.

6. Mental Health Assessment and Support:

Make mental health assessments a priority in order to discover underlying conditions that contribute to criminal behaviour. Create a network of mental health specialists to provide continuing assistance throughout and after recovery.

7. Family Reintegration and Counselling:

Reconnect juvenile offenders with their family while also offering counselling and assistance. Recognise the importance of families in the recovery process.

8. Post-Release Monitoring System:

Establish an effective post-release monitoring system to track the development of rehabilitated juveniles. Relapses into criminal behaviour can be avoided with ongoing help and monitoring.

9. Public Awareness and Perception Shift:

Conduct public awareness campaigns to refute myths and build empathy for juvenile offenders in

the rehabilitation process. Encourage people to see that rehabilitation is an essential component of a fair and functional judicial system.

10. Continuous Evaluation and Adaptation:

Commit to the juvenile justice system's continual evaluation and improvement. To maintain its efficiency and fairness, stay abreast of changing social requirements and international best practices.

A dynamic, adaptable system that recognises the fluid character of juvenile justice is required in the future. The reinvented system aspires to establish a climate in which the interests of justice and the possibility for good transformation in young lives are prioritised concurrently by merging responsibility with rehabilitation.

CONCLUSION

Finally, an analysis of juvenile justice systems indicates the critical necessity for a balanced strategy that includes both rehabilitation and strict sanctions for grave offences. The future of juvenile justice necessitates a paradigm change towards a more comprehensive and individualised approach, with rehabilitation serving as a pillar and punishment as ground. It is critical to recognise the potential for positive development in young offenders to divert them away from a criminal cycle. To address the core causes of delinquency, effective rehabilitation programmes should include education, counselling, and skill development. Simultaneously, a clear position on accountability and punishment is required for severe acts. It is critical to strike the proper balance between rehabilitation and punishment for significant offences to achieve justice and safeguard society. Punitive measures must be appropriate to the gravity of the offence, delivering a clear message that behaviours will not be accepted.

In reimagining juvenile justice, society must strive for a system that is not only punishing but also rehabilitative, supporting the possibility of good transformation in the lives of young people. We can develop a more compassionate and successful juvenile justice system that tries to rehabilitate while holding individuals accountable for their acts by investing in evidence-based policies, continuing research, and community participation. The future of juvenile justice resides in this delicate balance, where rehabilitation coexists with harsh sanctions for terrible crimes, eventually leading to safer communities and the enrichment of young lives.
