

# JUVENILE JUSTICE SYSTEM

*Khushi Khandelwal* (Author)

khushiikhandelwal1234@gmail.com

UPES, SCHOOL OF LAW

7909675075

*Nishant Sarraf* (Co-Author)

sarrafnishant@gmail.com

UPES, SCHOOL OF LAW

7792019236



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## ABSTRACT

The Juvenile Justice System is the most dynamic and irradiated framework embraced by the world which deals with all-round development of children. The chief centre is to give consideration to the unprotected children. To the extent practicable, a child is to be rehabilitated and re-established to the family. This project is going to assess the Juvenile Justice System in India in the light of protected reasoning and international parameters along with some of the landmark cases of which the Juvenile Justice Act had to take its course into being defined as an Act of its own.

The concept of juvenile justice was derived from a belief of problems that the problems of juvenile delinquency and youth in abnormal situations are not amenable to resolution within the framework of the traditional process of criminal law. The term 'Juvenile Justice' is used to refer to social as well as juridical justice. India seeks to provide social and juridical justice to the neglected and delinquent children through the use of court, code etc.

The Constitution of India recognises the special status of children through Articles 15(3), 24, 39(e), 39 (f), and 45. In India's National Policy made in 1975, it was stated and declared that children are a supremely important national asset. A systematic approach to juvenile justice requires that each of its components has a clear understanding of the objectives of the system and they all take coordinated actions of receiving them.

Keywords: Juvenile Justice, Constitution, Children, rights

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## SYNOPSIS

### ○ Statement of the Problem: -

In this research paper, the primary issue analysed is how the children in India are benefitted from the Juvenile Justice Act as, after all, it is formulated solely for the children's benefit since they are the assets of our country who will take our country to soaring heights.

The next issue addressed is how the historical system of the juvenile justice in India has evolved to its present form along with key importance to what were the issues faced by the central level during the legislative process as well as the normal structure of the Juvenile Justice System in India.

### ○ Survey of Existing Literature: -

In this research paper a lot of books have helped in the overall research for this important topic in law such as, The Juvenile Justice System in India written by Ved Kumari who has helped me through his book for the overall understanding of this crucial topic that I have been working on.

Not only books but from recent works from the UNICEF and its statements I have been able to understand and properly conclude my research work.

Further, online study portals such as Manupatra, Lexis Nexis and SCC Online have helped me in finding cases related to this topic. The form of research undertaken in this topic is Doctrinal research where the information cited in this project has been from various articles and essays related to this topic after clearly understanding and analysing the topic.

### ○ Identification of the Issues: -

The issues that have strived to be addressed in this research project are:

1. How the Historical Development of this Act took place
2. What was the process at the Central level during the Legislation period
3. What had implemented under this Act

○ Objective and Scope of the Research: -

The objective of this research paper is to analyse the topic The Juvenile Justice System of India to its crux and understand crucial information about this Act that has led it to be one of the most important Acts. The next objective was to find out the problems of The Juvenile Justice Act of India and also to see how it has been implemented and incorporated into The Indian Constitution.

The Scope of this research is related to how this Act has evolved from the past to the present more like its overall development and what were the processes for this act to be established into The Indian Constitution.

○ Research Methodology Adopted: -

In this research paper the research methodology adopted is doctrinal where the information is based on the findings and written work of authorised individuals related to this Field of law which includes works such as published journals, articles, research papers.

It has also been possible to find cases related to this topic with the help of online study portals such as Lexis Nexis, Manupatra, SCC Online through which it was easier to find important cases related to this topic and also find what was held along with the final judgements on these cases.

○ Probable Outcome: -

The probable outcome expected in this Research paper is to understand the core of the topic of The Juvenile Justice System in India along with its pros and cons. We should also be able to understand how this act had been implemented into The Indian Constitution.

○ Chapterisation: -

1. Introduction
2. Historical Development
3. Legislative Process
4. Role of Higher Courts
5. Implementation of Act
6. Role of Supreme Court
7. Brief of Related Cases

## 8. Conclusion

### INDEX

1. Introduction
2. Historical development
3. Legislative process
4. Role of the Indian Judiciary
5. Work of the Juvenile Justice Board
6. Provision of the act which requires change
7. Treatment of a Juvenile
8. Conclusion



### INTRODUCTION

Children constitute a significant portion of population in India, garnering social and legal interest with respect to their development and welfare. Even though the Constitution has done its level best for the overall safety and development of children, it is still not enough because a major chunk of children in India continue to live without a proper childhood.

In the efforts to provide them a good and secure childhood, the legislation introduced the term 'Juvenile Justice' to India which focuses on providing care, treatment, development, etc. to delinquent and neglected juveniles.

The notion of juvenile justice is derived from the belief that the problems of juvenile delinquency and youth in abnormal situations are not amendable within the traditional framework of the criminal law.<sup>1</sup> The Juvenile Justice Act ("JJ Act") was created to cater to these delinquent children and to answer their needs.

The JJ Act is one of the several measures taken up to fulfil the vision of the Constitution of India which recognizes the special status of children through Articles 15(3), 24, 39(e), 39(f), and 45.

The term 'juvenile justice' has often found different meanings for different contexts. It is often related to concepts such as juvenile court, rehabilitation of the young etc., but from a wider or broader perspective juvenile justice includes provisions for the welfare and well-

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<sup>1</sup> Ved Kumari, The Juvenile Justice System of India 1 (2<sup>nd</sup> ed., 2010)

being of all the children in need and protection. It is used to refer to social and juridical justice to the neglected and delinquent children through the use of code, court etc. for these children they are usually led to this type of lifestyle because they commit an offence or because of circumstances that led them to lead a life of crime.



## HISTORICAL DEVELOPMENT

The Juvenile Court under the Madras Children Act 1920 was not different from that under the English Children Act 1908, but the subsequent Children's Acts dispensed with the presence of lawyers based on the model of patriae model of the American juvenile courts. The juvenile welfare boards, adopted by the Scandinavian countries became an integral part of the legislations dealing with delinquent and neglected children since 1960.

The juvenile justice in the juridical sense has followed the same pattern of development in the West as well as in the East. First, it was recognized that children are not as mature as adults to understand the nature and consequences of their acts and because of that they could not be held responsible for their crime. By the 1850s, the institutionalization of these were not that fruitful because of the refuges, reformatories etc.

In India, the development of the juvenile justice system has been divided into five different periods for better understanding, they are:

1. Prior to 1773
2. 1773-1850
3. 1850-1918
4. 1919-1950
5. Post 1950

Prior to 1773, the Hindus and the Muslims had provisions for the maintenance of children—the main responsibility while bringing up children was that of the parents and the entire family. Muslim law makes it compulsory for a person who finds an abandoned child to take its charge, if he has reason to believe that it may otherwise perish. It is generally maintained that neither set of laws had any reference to juvenile delinquents.

During the period of 1773-1850 began with the emergence of the East India Company as a governing body and ended with the introduction of the first legislations relating to children. It

was also during this period that there was a conversion of the use of prisons from places of transporting convicts to places for keeping convicts.

During 1850-1919, many legislations were enacted to cover a wide range of matters concerning children. Few of the Acts which were implemented in this time period are The Female Infanticide Act, 1870 and the Vaccination Act, 1880 which helped in the welfare of children.

From 1919 to 1950, one of the most significant developments for the juvenile justice system was the Report of Indian Jail Committee of that year. The Committee added that the primary duty of keeping people out of prison, if it can be possibly done, needs to be more clearly recognized by all authorities by the courts.

Post 1950, the Five-Year Plans were introduced for the overall development. Once the Five-Year Plans were started, provisions for children were made under these plans though implementation of services under the juvenile justice has not been a specific head of expenditure in the Five-Year Plans. During this period, 'Girl Child' was recognized as an important target that demanded attention and schemes such as the Integrated Child Development Services for children in need of care and protection.



### LEGISLATIVE PROCESS

The Indian Parliament has seen several Bills relating to children in need of care and protection, moved by the ministers of the government as well as by private members. For the development of the juvenile justice system in India, the Parliament discussed a total of seven Bills namely the Children Bill 1953, the Women and Children Institutions Licensing Bill 1953, the Children Bill 1959, The Children (amendment) Act, 1977 etc.

The debates contained different shades of opinions towards the problems of delinquency. During this debate a debater said that, the tendency of these children is corrupt, morbid and quite different from the ordinary ones.

The problem most often highlighted in the implementation of the proposed provisions was lack of funds. Multiple institutions and adjudicatory bodies highlighted that the wide coverage of Bills in terms of their subjects as well as territorial operations meant high costs, since there were no funds provided directly by the Central Government. The Bills were also

criticized for leaving the implementation of important matters to be regulated by the rules that were framed by junior officers who were unaware of the special approach of the legislation.

Adoption was welcomed as an important measure for providing family care to children. It was emphasized that adoption required very careful scrutiny of the adoptive family, especially in case of a girl child. The provision related to adoption was introduced as a measure for rehabilitation of children under the JJ Act. It was not discussed in the Lok Sabha at all, even though the minister introducing the Bill had mentioned it along with its features.



### **WORK OF THE JUVENILE JUSTICE BOARD**

1. As referred in Section 4 of the Act, a special training program must be prepared and the officers of the Board including the Principal Magistrate should be given training of child psychology and child welfare.
2. Ambiance of the place where the Board holds inquiry should be child friendly. Wearing of black coats, using raised platforms or dais etc should be avoided. Practice of making the juvenile stand in front of the Board should be stopped. Basic infrastructure like computer, typewriter, stenographer, furniture and buildings should also be provided to the Board for smooth discharge of duties.
3. There should be a proper maintenance of files and case records.
4. Video linking of the homes should be provided for children to facilitate inspection and supervision by the Board to keep a check on anything done against the best interest of the child.
5. At least one of the two social workers in a Board should be a person with a minimum qualification of law degree.
6. The Board should be provided with a list of experts in the field of psychology, counselling, clinical psychiatrist, NGOs, panellists of advocates and fit institutions and fit persons, observation homes, special homes and voluntary organizations who are dedicated to the field of child welfare. The services of such persons may be utilized. The officers manning the juvenile courts/Boards need to be sensitized to the development need of the juvenile in which case, flexible enough to respond to new discoveries in social sciences research and willing to invest in the experiment with promising new interventions for offenders.

7. For giving good services to the juvenile and the parents of the child, they should be treated psychologically in consultation with a psychiatric. For the same, a psychologist and one social worker, who has awareness of the relevant law, must be appointed in the Juvenile Justice Board.



### PROVISIONS OF THE ACT WHICH REQUIRES CHANGE

1. The High Court should take initiative to create and establish more and exclusive Juvenile
2. The Juvenile Justice Board (“JJB”) should be made functional on all working days and the proceedings be held on all working days.
3. The Act should be amended to enable the JJB to directly entertain complaints of child for offence against them instead of being through police so that the child can give his complaint without any fear.
4. The JJ Act, 2000 doesn't have any difference between a male and a female youngster. Such plan of the JJ Act anyway neglects to take a note of the way that the female adolescent being exceptionally helpless is probably going to be all the more serenely and advantageously misused and even manhandled antagonistically. Such a female adolescent needs uncommon insurance even at a perception home or at a position of wellbeing, despite the way that deliberate social associations may approach to give a position of security. An inbuilt wellbeing component is needed to be given to such a female adolescent in the Act itself.
5. Provision ought to be made to occupy in any event 25% of the fine sum gathered by the criminal courts at each spot towards making of an adolescent government assistance and recovery subsidize, at the removal of the JJB of the specific spot/territory to be used by it in everyday restoration need of the adolescent or youngster concerned.
6. Section 16(1) of the Act ought to be altered and articulation "life detainment", be subbed by articulation "any detainment". This will be in consonance with the Legislative purpose in segment 16(2) of the Act.



## TREATMENT OF A JUVENILE

1. Juvenile ought to be brought before Juvenile Justice Board inside 24 hours.
2. The age of the adolescent ought to be resolved concerning the date of commission of the offense. A definite logical examination for assurance of the age isn't needed.
3. The Board ought to guarantee that protection privileges of the adolescent are not abused and Section 21 of the JJ Act is carefully consented to in letter and soul.
4. The adolescent has similar Constitutional protections like other grown-up guilty parties. The announcement of the adolescent under Section 313 Criminal Procedural Court ought to be recorded and in the event that he/she needs to show proof then that ought to likewise be permitted.
5. In no case the adolescent will be sent to jail in default of installment of fine or default of outfitting security.
6. Whenever an adolescent is delivered before a judge not enabled to practice the forces of the board under the JJ Act such officer ought to immediately record such assessment as respects the adolescent and forward the records and the adolescent to the Board and the board will hold the enquiry as though the adolescent had initially been brought before it.
7. Judges in the Adolescent Courts ought to be prepared to perceive the instructive, social and treatment needs of the kids in emergency.
8. Without there being legitimate framework or its appropriate execution stays fragmented. This part ought to likewise be at the same time managed by completely concerned government or nongovernmental offices.

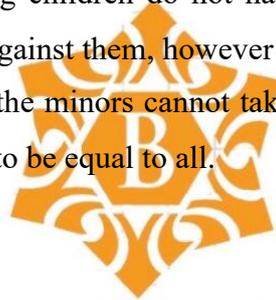
9. There is religion based selection framework in India. It should be under uniform law not founded on religion and an extensive between nation selection law is additionally required.

10. For appropriate execution and offering help to the adolescents assurance old enough is an important factor. In India on account of numerous reasons numerous youngsters don't have birth testaments thus, the usage of the enrollment of Birth and demise of the kids ought to be made in an undeniable manner.



### CONCLUSION

The juvenile justice system is a system which provides an overall development and protection for young children. It is a positive concept that needs to be encouraged more and more for the benefit of the young child, as young children do not have the capability of realizing right from wrong so they cannot be held against them, however in my opinion there should be laws that should be implemented so that the minors cannot take advantage of any of the situation that they are in, after all the law has to be equal to all.



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