

Emerging Trends in juvenile justice: A socio-Legal prospective

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Abstract

The internationalisation of childhood and the formation of children as a distinct social class are the fundamental roots of juvenile justice. The United Nations Convention on the Rights of the Child (CRC) (1989) altered the epistemology of juvenile justice with its Euro-centric image of children as right-holders. In 1992, India ratified the CRC, which defined 'child' universally, regardless of gender, for the first time, challenging the gendered subjectivity of the 'female kid.' Such an epistemological shift, which I refer to as the birth of a new mode of delivering juvenile justice, did not persist long, and one gruesome episode, together with mediatized demonization of male youngsters and growing social discontent about women's safety, transformed the scene. The importance of gender in juvenile justice jurisprudence from the colonial period to the present is examined in this paper. It discusses the Indian state's lack of knowledge of children's rights as it reflects on populist punitiveness at work. The paper explains how the formation of gendered concepts of a particular set of male child offenders has resulted in the punitive turn of the juvenile justice system in India by mapping legislative, juridical, and political components of the journey of the juvenile justice framework in India. It goes on to explain the possible consequences of such punitiveness, as well as why a retributive response by the state is a step backwards in the reform of juvenile delinquents. Overall, it tells the storey of a political-systemic failure to cope with a critical social issue, which should serve as a lesson for countries in South Asia and the rest of the global South in terms of child governance.

Keywords: juvenile justice; male child offender; India; populist punitiveness; gender bias; Supreme Court of India; serious offence.

Introduction

The juvenile justice system in every country operates at a crossroads of competing principles. Adults are treated as moral individuals who make decisions all around the world. Despite the fact that these decisions are frequently ill-informed and stem from a poor social background, western legal traditions insist on considering most people as free moral agents in most situations and pinning blame for their acts on them. It would be arrogant and authoritarian to do otherwise, as it would be a denial of the individual's basic humanity. Children, on the other hand, are viewed as a natural force rather than autonomous moral agents. When they reach adulthood, they are restrained, supervised, trained, and prepared to assume that rank. Even after the 1960s-era flattening of hierarchies, few parents or teachers have reservations about making decisions for young children, especially if they can explain and justify their decisions as being in the child's best interests.

The area of juvenile justice is where these two notions collide. There is no clear transition from incompetent, monitored child to autonomous, ethically responsible adult. Instead, there's the dubious position of adolescence, which has been extended indefinitely

since the mid-twentieth century, beginning sooner and ending considerably later. Because crime peaks in adolescence, this ambiguity is crucial to the entire criminal justice system. We can't decide whether to treat juvenile offenders as helpless youngsters in need of supervision or as morally responsible adults who ought to be punished. Each juvenile justice system reflects a unique approach to resolving this conflict. Children under the age of 18 cannot be prosecuted for criminal offences anywhere, whereas mature adults above the age of 18 can be tried with minimal restrictions. Juveniles with an ambiguous status between childhood and mature maturity have a particular procedure in most jurisdictions (Doob and Tonry, 2004). Typically, these agreements contain processes for diverting some young offenders from the criminal justice system, a juvenile or youth court, and the ability for this court to order training, education, counselling, supervision, mediation, and restoration in lieu of or in addition to punishment.

The subject of 'How effective is the juvenile justice system?' is certain to be debated because the system is an attempt to balance opposing ideas. Effectiveness will be defined and measured differently depending on whose principles and aims are prevalent. The first half of this essay examines several interpretations of effectiveness, some of which place a greater emphasis on outcomes such as behaviour modification and crime reduction, while others place a greater emphasis on justice, symbolic values, and victim satisfaction. Given the major focus on behaviour change and crime reduction, it's critical to distinguish between the effectiveness of exceptional treatments with specific adolescents and the overall effectiveness of the juvenile justice system. The evidence on the effects of certain interventions and programmes on the behaviour of young people exposed to them is summarised in the second section. The final section evaluates the impact of actual juvenile justice systems on young people's behaviour, keeping in mind that what they typically give may be far less stunning than the specialised interventions and programmes that most evaluations focus on. The final section returns to a broader evaluation of the system's success in light of evidence of its effects on the behaviour of young people who have been exposed to it.

The Juvenile Justice (Care and Protection) Act of 2000 was enacted as human rights legislation, and it is now in effect in every state, eliminating the whole Children's Act enacted by each state separately. The two sorts of minors are addressed in this act. Section 2(1) defines "juvenile in conflict with the law" and Section 2(2) defines "child in need of care and protection" (d). A person who has not reached the age of 18 is referred to as a juvenile or a youngster under Section 2 (k). The penal system will include the care of convicts with the primary goal of reformation and social rehabilitation. Juvenile criminals must be kept separate from adults and treated according to their age and legal standing.

1.1 Brief Evolution of Juvenile Justice Legislations in India

The origins and development of juvenile justice in India have been examined by some authors (Mousami Dey, 2014). Prior to the arrival of the British in India, children's actions were governed by existing Hindu and Muslim laws, which held the respective families of the individual in question accountable for regulating their children's behaviour. Under British administration in India, there was a pressing need for new child-related legislation. Between 1850 and 1919, particular laws such as the Apprentice Act (1850), the Code of Criminal Procedure (1861), and the Reformatory School Act were passed (1876 and 1897).

The Apprentice Act (1850) stipulated that impoverished or petty offenders between the ages of ten and eighteen should be dealt with individually, with condemned youngsters being forced to serve as apprentices for businessmen. Children's special status was likewise recognised in Section 82 of the Indian Penal Code of 1860. It established age restrictions for

criminal responsibility and exempted children under the age of seven from being held responsible. Children aged 7 to 12 were deemed mature enough to comprehend the nature of their acts in specific situations.

The 1861 Code of Criminal Procedure allowed for separate trials for those under the age of 15 and treatment in reformatories rather than prisons for those under the age of 15. It also included measures for young offenders' probation. Such endeavours signalled a shift in the state's attitude and approach to juvenile delinquents, as well as the shift from a punitive to a reformative mentality.

The Reformatory School Acts of 1876 and 1897 served as forerunners in this regard. The Act included provisions for delinquents to be placed in reformatory schools for a duration of two to seven years. They were transferred to adult prisons after they became 18 years old. The 1897 Act included provisions for the treatment and rehabilitation of young offenders.

Under British administration, there was no national legislation. Certain provinces, on the other hand, have enacted their own legislation to deal with juvenile delinquency (like Bombay, Madras and Pondicherry).

Following independence, India's juvenile justice policy was built around the mandates set forth in different articles of the Indian constitution (Article 15 (3), 21, 24, 39 (e) and (f), 45, and 47). Various international covenants, such as the UN Convention on the Rights of the Child (CRC) and the Beijing Rules, or UN Standard Minimum Rules for the Administration of Juvenile Justice, guided Indian juvenile justice policy. The Central Child's Act (1960), which barred the detention of children under any circumstances, was a landmark statute for neglected and delinquent children in India. Children's courts and the Child Welfare Board were named as two crucial bodies to deal with such children.

The Juvenile Justice Act of 1986 was passed by India's federal government in 1986. It was a piece of social law aiming at providing delinquent and neglected children with care, protection, therapy, and rehabilitation. It also investigated the adjudication of juvenile cases. For offenders, it established juvenile courts, and for non-offenders/neglected children, it established juvenile welfare boards.

In the year 2000, the Juvenile Justice (Care and Protection of Children) Act was enacted. It established a standard legal framework for the administration of justice across the country. The fundamental goal of the new Act was to ensure that no child (under the age of 18) offender was imprisoned. The Act also established infrastructure and apparatus for child care, protection, and rehabilitation. In 2006, the Act was revised once more, and then again in 2010.

Aside from providing for care, protection, rehabilitation, and development, the Juvenile Justice Act also makes the juvenile adjudication and disposition system child-friendly. It allows the Juvenile Justice Board (formerly known as Juvenile Court) to undertake investigations using a multidisciplinary approach. A Child Welfare Committee has been constituted under the Act to address the needs of vulnerable children.

In 2015, a new law dealing with juvenile delinquency was passed, which will be discussed later in this article.

1.2 Interpretations of effectiveness

Not all conceptions of juvenile justice efficacy are consequentialist: not all are focused on using juvenile justice to promote change in young offenders or the broader social context. Instead, according to some readings, juvenile justice is effective when it provides a fitting or satisfactory punishment to adolescent offending. Here are some instances.

- (1) Providing a morally and legally adequate response to young people's unlawful behaviour could be considered effective juvenile justice. According to this perspective, reactions to juvenile delinquency are framed as penalties or punishment, just as they are in the adult system, even though the punishments deemed suitable for juveniles may be less severe and qualitatively different. The focus is on vengeance motivated by a feeling of fairness. Importantly, the notion of retribution acts to limit the scope and severity of the sentence within the context of 'just deserts' theory, but the scope for intervention on a treatment model is potentially endless. Regardless of whether or not the young people who have been sanctioned modify their behaviour, the goal of providing a just reaction to illegal behaviour by young people will have been met.
- (2) Adopting a punishment as communication perspective, effective juvenile justice may entail communicating with the general public through suitable symbolic gestures. According to Roberts (2004), juvenile justice has become increasingly regarded through the lens of 'populist punitiveness' in recent years, not just in the United Kingdom and the United States, but also in a number of other nations. This has typically occurred in the aftermath of well-publicized cases in which young criminals have committed significant crimes, such as the 1992 murder of 2-year-old James Bulger in England by two 10-year-old boys. Politicians have attempted to show that the juvenile justice system is capable of sending the appropriate message in the face of such terrible offences.
- (3) Alternatively, efficacy might be defined as satisfying victims of youth-related crimes, such as through mediation, apologies, or restoration, or by vengeance (but with the emphasis on the feelings of victims). As a result, 'restorative justice' approaches to child crime are frequently justified more by the advantages delivered to victims than by any influence on the behaviour of young offenders.
- (4) In contrast to punitive responses to youth criminality, 'caring' may be understood as largely a response to the needs of troubled children rather than a means of modifying behaviour. At the same time, it's possible that this distinction is arbitrary. The Scottish children's hearing system has been described as being concerned with 'needs rather than deeds,' although it is more correctly described as holistic, attempting to address needs while also confronting poor behaviour. Other systems, such as those in England and Wales, separate the care and juvenile justice systems. Meeting the needs of young people who behave badly might be considered as vital in either sort of institution, regardless of the consequences.

Various different interpretations of effectiveness, such as behaviour modification or crime reduction, are available.

- (5) The juvenile justice system is considered effective if it prevents the majority of kids from being involved in criminal activity. This perspective emphasises the broad repercussions of having a well-functioning juvenile justice system: it emphasises the system's impact on the majority of young people who do not interact with juvenile justice, rather than the minority who do. Of course, this is not the most popular understanding of juvenile justice in public debate, but it is one that has some sway. According to trustworthy evidence (Roberts, 2004), the general public feels that

young people should not be permitted to believe they can 'get away with anything,' and that the juvenile justice system should prevent them from believing this.

- (6) Also, an effective system could be one that keeps troubled young people out of trouble by closely controlling and supervising them while they are still with their families, through measures such as electronic tagging, or by incarcerating them in secure institutions, whether they are referred to as "residential care," "special schools," "detention centres," or "youth prisons."

Many of the conflicts and tensions in the juvenile justice system, as well as in public debate, occur because we want the system to perform a lot of different things, some of which are incompatible or difficult to reconcile. These goals include an acceptable response to criminal behaviour ('retribution,' 'just deserts,') public condemnation, satisfaction of crime victims, care of children in danger, general deterrence, incapacitation of juvenile offenders, and modifying their future behaviour, to name a few. Some of these goals could be disavowed or at least downplayed, it could be argued. In Scotland, for example, the goals of retribution and deterrence are mainly rejected, at least for children under the age of 16, with the exception of a small proportion of juveniles accused of very serious crimes who are tried in adult courts. Bottoms and Dignam (2004) contend that the Scottish system can only give total precedence to the interests of children since mid-adolescents from the age of 16 are dealt with by adult courts. This demonstrates how, no matter how the system is set up, objectives other than child welfare tend to come back in. Although different systems place different emphasis on different purposes, it is likely that in future social worlds, the juvenile justice system will be required to achieve a variety of goals, requiring systems to be effective in a variety of ways.

1.3 Effectiveness of the normal juvenile justice system

Studies on the effects of the juvenile justice system's standard response are uncommon, and they're frequently based on shoddy designs. Few studies contain control groups of young people who have committed crimes but have not been dealt with by the juvenile justice system. There have been no studies in which young offenders were randomly assigned to an experimental group (to be handled normally by the system) or a control group due to insurmountable logistical and ethical issues (to be ignored by the system). In theory, the ideal way to evaluate the effects of juvenile justice is to conduct a longitudinal study of a cohort of young people, collecting data on their offending via self-reports and their interactions with juvenile and adult criminal justice systems. If a big enough study is conducted, it should be able to identify a group of criminals who were processed by the system and a matched group of offenders who were not processed by the system within the same time period. Later levels of offending can then be compared between the two groups, as evidenced by police records and self-reports, to examine if offending was reduced among those who had come into touch with the juvenile justice system. To make a similar comparison, multivariate analysis might be used instead of matching. Only a few studies of this nature have been published. Tracy and Kempf-(1996) Leonard's follow-up research of the 1958 Philadelphia birth cohort, in which they tracked delinquents up to the age of 26, is the best example to date. They discovered that delinquent careers were shorter when the juvenile justice system intervened early in the form of probation (community supervision) rather than when the first intervention occurred much later. They also discovered that, after controlling for other factors, boys who were sent to a correctional facility at any time were more likely to continue offending into adulthood than those who were not.

Farrington (1977) observed that those first convicted between the ages of 14 and 18 increased their self-reported delinquency relative to a matched group of unconvicted males in a cohort of 411 boys who grew up in a working-class neighbourhood of London. The same conclusion was reached when researchers looked at the impact of first convictions between the ages of 18 and 21. (Farrington et al., 1978). These studies, on the other hand, were intended to see how being publicly labelled as a criminal affected people. They are inadequate for the current situation because they do not consider the kind, intensity, or duration of contact between juvenile offenders and the juvenile justice system. It will be able to do adequate analyses on data from the Edinburgh Study of Youth Transitions and Crime within the next few years (Smith and McVie, 2003).

Young offenders' experiences with juvenile justice systems are likely to be significantly different from the flagship programmes that are frequently picked for evaluation studies. "A national examination of the circumstances of incarceration indicated that many adolescent detention facilities did not fulfil minimal professional requirements" in the United States (Krisberg and Howell, 1998: 347). Although there is more information accessible for the United States than for most other countries, there is no doubt that things are just as bad, if not worse, in other countries.

The re-offending rates of young persons released from correctional facilities have been studied extensively in the United States. Many of these studies appear to show a suppression or slowing of offending for a period after release, and statistical techniques have been used to determine how much of this slowing is due to natural ageing and how much is due to a mathematical quirk known as "regression to the mean" (offenders tend to be captured by the system at a time when their offending is close to its peak, so there will always tend to be a decline afterwards). However, as Krisberg and Howell (1998) note, the interpretation of the data is still debatable, and the issues will not be resolved until better research methods are adopted.

A comparative study based on two longitudinal research studies in Bremen, Germany, and Denver, Colorado, provides the most robust evidence yet known about the effects of juvenile justice processes (Huizinga et al., 2003). Both studies followed high-risk groups of young people from adolescence through early adulthood. Both have collected data on self-reported offending and encounters with the juvenile and adult criminal justice systems at various phases of a child's development. Bremen's juvenile justice system is forgiving and geared toward keeping young offenders out of the criminal court system. Denver's system, on the other hand, is harsher and more punishment-oriented. In Denver, many acts are illegal for kids, but they are not regarded criminals or deviants in Bremen. Young offenders in Denver are more likely to be arrested, cited, or detained, and to end up in juvenile court, where they will get an intermediate-level sentence, such as community service. In Bremen, the prosecutor dismisses the vast majority of juvenile offenders (ages 14–17) with a warning or a direction such as community service.

Despite these significant disparities in the court system's response, the level of offending for equivalent offences is comparable in the two cities. The number of offences committed is larger in Denver, but this is mostly due to the fact that a lot of behaviours in Denver are illegal, but not in Bremen. As a result, Bremen's significantly more lenient system did not result in noticeably increased rates of offending.

In Denver, police encounters and arrests begin at a younger age than in Bremen, and arrest rates are substantially higher in Denver: by the age of 18, 34% of males in Bremen had

been arrested, compared to 73% in Denver. The two studies employed a longitudinal design to look at the effects of arrest and varying levels of punishment on later behaviour. Various statistical procedures were employed to evaluate the effect of arrest after other factors were taken into account, such as creating a matched control group of young people who had not been arrested in one type of analysis. In both cities, arrest had minimal impact on later delinquent behaviour. Arrest tended to perpetuate or aggravate delinquency when it had an effect. There were also comparisons made between those who were not arrested, those who were dismissed or diverted, and those who were given a more significant consequence. It was impossible to differentiate more sharply between different degrees of sanctions in Bremen due to the excessive leniency of the response. The results were identical to those obtained in the case of arrest. They discovered that the severity of the punishment had minimal impact on future criminality. When a link between sanctions and delinquency was discovered, those who were given harsher penalties tended to stay in delinquency longer or have higher levels of future criminal activity.

Although the data on this topic is limited, the likelihood of police interaction in the two cities was likely similar, even if the subsequent repercussions of police involvement were vastly different. 'It may not be the severity of sanctions, but rather the sheer certainty of a response for delinquent behaviour that is important both for the offender and for general deterrence in society at large,' Huizinga et al. say (2003: 5).

It's possible that a study like this provides a more accurate picture of juvenile justice's effects than the evaluations of various interventions and programmes outlined in the previous section. The findings do not suggest that a policy of 'minimal intervention,' defined as overlooking or dismissing juvenile delinquency, or responding inconsistently or after extended delays, is likely to be helpful. They do, however, suggest that a system that deals with youth misbehaviour quickly and efficiently while still being relatively forgiving could be just as effective as one that is much harsher.

1.4 Juvenile Crimes in India

Several small and serious crimes, such as theft, burglary, snatching, robbery, dacoity, murder, and rape, are committed on a regular basis throughout India. And the awful fact is that all of these crimes are committed by children under the age of eighteen.

There is also a trend among minors that those between the ages of 16 and 18 are more likely to be involved in terrible criminal crimes. According to data from the National Crime Records Bureau, of the 43,506 offences perpetrated against minors under the Indian Penal Code (IPC) and the Special Local Law (SLL) by juveniles in 2013, 28,830 were committed by those aged 16 to 18. According to the data, the number of adolescents found in violation of the IPC and the SLL increased by 13.6 percent and 2.5 percent, respectively, in 2013 compared to 2012.

On December 16, 2013, an inhumane gang rape of a young girl was committed.

This was a particularly heinous event that horrified the nation's collective conscience.

It was eventually discovered that one of the five accused was a juvenile, and he was the most heinous.

A kid was implicated in yet another horrible gang rape case, this time known as the Shakti Mill Rape case. These and other recent events have sparked a public debate about

whether the current Juvenile Justice (Care and Protection) Act, 2000, should be amended to treat people under the age of 18 as minors or juveniles.

1.5 Reasons for Juvenile Crimes

Interdisciplinary research on juvenile delinquency demonstrate that numerous behavioural changes in juveniles/adolescents occur around the world as a result of the abrupt changes in their bodies caused by the hormonal surge associated with puberty. The changes are most visible in physical characteristics, such as teenage height and weight, and are quickly followed by other sexual and physical maturation changes. These bodily shifts are accompanied by mental shifts as well.

1. Social Factors

Juveniles might create a delinquent subculture as a result of cultural deprivation and status frustration (Albert Cohen, 1955). Due to peer pressure, they frequently embrace deviant tendencies. According to Walter B. Miller (1958), certain youngsters (typically from the lower class) turn mainstream culture on its head, giving up whatever is valued and viewed as positive by society in general, and replacing it with the polar opposite value system. As a result, if society upholds certain morality, juvenile delinquents abandon these principles and strive to thrive in the areas of toughness, outsmarting their peers and engaging in activities that delight them (defined as focal concerns by Miller). Recent studies in the United States (Ling Ren, Hangowel Zhang et al, 2016) have used delinquent subculture theory to a new field of juvenile attitude toward the police in China (Ling Ren, Hangowel Zhang et al, 2016).

Cloward and Ohlin (1960) believe that juveniles' delinquent tendencies are influenced by the opportunities available in their environment. If youth have the opportunity to study unlawful behaviours, they may become criminals. If they don't have these chances or can't succeed in organised crime, they may engage in street brawls and hooliganism.

Other research suggests that societal variables such as poverty and a lack of education contribute to adolescent misbehaviour (Ombato, John Onyango et al 2013). Substance usage habits make youth more likely to commit crimes. Higher rates of delinquency are linked to broken families. Other studies (World Youth Report, 2003) have underlined the negative role of family, stating that juveniles who receive less familial supervision, or who live in dysfunctional family environments or in disadvantaged homes are more likely to engage in delinquent behaviour.

2. Psychological Factors

There are also psychological factors for delinquency, which can be explored using Freudian ideas such as the id, ego, and super-ego. When the id (the instinctive portion of a person's personality) grows too powerful and the super-ego (the socially taught element of personality) becomes weak, the ego becomes anti-social (K. S. Williams 2012). Juveniles develop delinquent inclinations when their self-control and social regulation through primary groups is weakened. Deviance and delinquency have been linked to the dissolution of social structures (Chris Knoester and Dana L. Haynie, 2005). There may be a substantial correlation between a young person's psychological state and delinquent tendencies. In a study of female detainees in Bangladesh, it was discovered that the offenders of the Female Juvenile Center had a relatively high rate of psychological disorders (Maruf et al, 2015). These criminals also had a high rate of substance misuse.

The social and psychological elements that contribute to delinquency in India have been extensively discussed by David Brandt (2006). Under the heading of social factors, it

has been noticed that the social environment has a significant impact on juvenile deviant tendencies. Among these, neighbourhood ties and social organisation can play a significant role in a juvenile's delinquent behaviour. This is highlighted in He Len Chung and Laurence Steinberg's research (2006). According to the findings, when neighbourhood links are poor and social organisation components are ineffective, social control over society members is weakened, leading to delinquent inclinations. Ineffective parenting and the association of the youth with deviant friends, in addition to the poor area, all contribute to greater rates of offending.

3. *Biological Factors*

Individuals are influenced by their biological/ genetic make-up, according to biological reasons. They aren't technically enslaved by biological design, but it does make these people more prone to delinquent impulses. Juveniles' impulsive and rebellious behaviour is attributed to hormonal changes in their bodies. Environmental, economic, and ecological factors are also key triggers in the lives of juveniles. However, it is frequently a mixture of these variables that leads to a condition of juvenile delinquency.

1.6 *Law relating to juvenile crimes*

The Apprentices Act, 1850, in India, was the first law dealing with juvenile crimes. It stated that adolescents under the age of 15 who were found to have committed petty offences would be tied as apprentices. Following that, the Reformatory Schools Act of 1897 went into force, requiring that children under the age of 15 who were sentenced to prison be put to a reformatory cell.

Our Parliament passed the Juvenile Justice Act, 1986 after independence with the goal of providing care, protection, development, and rehabilitation to neglected or delinquent youngsters. It was a law that established a standard structure across the country.

A "boy who has not attained the age of 16 years and a girl who has not gained the age of 18 years" was defined as a "juvenile" under Section 2(a) of the Act.

Later, in 2000, Parliament passed the Juvenile Justice (Care and Protection) Act, which raised the age limit for both girls and boys to 18 years.

Regardless of the seriousness of the offence, a minor can only be imprisoned for a maximum of three years under this statute. In light of Section 17 of the Act, it offers immunity to a child who is under the age of 18 at the time of the alleged offence from being tried in a criminal court or facing any punishment under criminal law.

The goal of the new law was to rehabilitate the youngster and integrate him or her into society. The logic is that, because of his or her young age and lack of maturity, a kid can still be reformed, and it is the state's job to protect and reform the child.

1.7 *Important Provisions under the Indian Juvenile Justice Act*

Under section 2 (I) of the Juvenile Justice Act of 2000, a juvenile in conflict with the law is defined as a minor who is under the age of 18 (but over the age of 10) on the date of the crime. There is no unanimity on what constitutes a kid under Indian law, which leads to confusion and conflict over how children should be treated legally.

Another category of youngsters is referred to in section 2 (d) of the same Act: "Children in Need of Care and Protection." These children are those who are found without a home, a permanent residence, or any other ostensible means of subsistence.

They could be beggars, street children, child workers, orphaned/ abandoned/ penniless children, abused/ trafficked children, children with physical deformities/ mental illnesses, or victims of conflict and disaster circumstances. The Indian JJ Act applies to all such children and, at least on paper, safeguards their rights. R. N. Choudhary (2005) discusses the many laws that exist in India regarding juvenile justice. S. K. Bhattacharya also talks about India's juvenile justice system (2000).

The JJ Act's preventive approach necessitated the inclusion of the second category of minors. Children who live in poverty or in tough circumstances are particularly vulnerable to committing crimes. Any event in their lives can set off the offender switch, and they may become delinquents. As a result, in keeping with the notion that prevention is better than treatment, the JJ Act of India has provided provisions for both offenders and those who are likely to engage in aberrant behaviour to be treated under the Act.

Both types of children are addressed differently by distinct institutions: juvenile criminals are dealt with by the Juvenile Justice Board, while vulnerable children are dealt with by the Child Welfare Committee.

A metropolitan judge, or judicial magistrate of first class, and two social workers, at least one of whom should be a woman, make up the Juvenile Justice Board. Every police station is required to have a Special Juvenile Police Unit under the Act. All of these individuals should be trained in child psychology or have a high level of sensitivity while dealing with children.

A joint trial of the juvenile offender and adult criminals cannot be undertaken if the kid is a co-accused with an adult or adults. Furthermore, India's Juvenile Justice Act restricts the arrest of adolescents and establishes bail as a right for the offender, regardless of whether the offence is bailable or not.

Furthermore, juvenile criminals' trials are held in an informal setting, with the offender not being able to be taken to the Juvenile Justice Board handcuffed. Police officers and other government employees are dressed casually. The identity of the criminal is always kept hidden, and the name of the offender cannot be mentioned in newspapers or on television. Following the trial, the offenders are placed in observation or special homes. Children in need of care and protection are placed in orphanages.

All of the Indian government's child-friendly initiatives demonstrate that the government does not want to imperil the lives of young criminals, and instead wants to offer them all a chance to change. All of the provisions are in conformity with current juvenile law.

• *Proposed Amendment in Juvenile Justice Act, 2000:*

Due to widespread public outcry about the rising number of crimes perpetrated by minors, the government has chosen to offer the proposed revision to the legislation in the current Parliament. The consequences of this amendment would be far-reaching in our criminal justice system.

In brief major changes are as follows:

- The proposed legislation would be replacing the existing Juvenile Justice (Care and Protection) Act 2000
- It has clearly defined and classified offences as petty, serious and heinous.

- It has been noticed that the increasing number of serious offences being committed by juveniles in the age group of 16-18 years. Thus, in recognition of the rights of the victims alongside the rights of juveniles, it is proposed that such heinous offences should be dealt with in special manner.
- Therefore, it has been proposed that if a heinous crime is committed by a person in the age group of 16 to 18 years, the Juvenile Justice Board will first assess if the said crime was committed by that person as a 'child' or as an 'adult'
- The Juvenile Justice Board will have psychologists and social experts in it which would make sure that the rights of the juvenile are duly protected if the crime was committed as a child.
- The trial of the case shall proceed on the basis of Board's assessment report that whether the concerned juvenile has committed the crime as a child or as an adult.

2. Judicial Trends On Juvenile Delinquency

The Supreme Court and the other High Courts play an important part in the development of India's juvenile justice system. Lower courts deal with juvenile delinquent matters at the primary level, but because their decisions are not binding on other courts, they are unable to influence policy. As a result, the trends in judicial approach to a juvenile in conflict with the law, as reflected in judgments of the Hon'ble Supreme Court and several high courts, are being investigated. Juveniles in dispute with the law who are produced or brought before the courts/juvenile justice board have a legislative and constitutional obligation to deal with them. When deciding cases, the competent authority must conduct a thorough investigation and provide ample opportunity for juveniles to present their case, not only during the investigation into the commission of the offence for which he or she is charged, but also at the outset of the case when the issue of determining his or her age is brought before the court or the Board concerned.

Child delinquency is a big problem in both developing and wealthy countries, and it is rapidly increasing. Even in small cities and rural regions, the problem is rapidly spreading, and if it is not addressed through preventive and remedial measures, it will ruin 'the child,' the nation's future. To address and resolve the issue, governments have formed numerous courts and boards to carry out the various laws enacted by legislation. By interpreting numerous legislative enactments adopted for the benefit of juvenile offenders, the courts have made significant contributions to the field of juvenile justice.

Though the Juvenile Justice Act of 1986 and the Juvenile Justice (Care and Protection of Children) Act of 2000 are primarily concerned with the juvenile justice system in India, the judiciary has expressed serious concerns about the proper implementation of beneficial provisions of law relating to children on several occasions.

2.1 Judicial Trends:

Judicial trends set by various courts relating to child delinquency can be examined under following heads :-

1. Determination of Age of Juvenile

The court's first and most important duty and responsibility is to assess whether a person is a juvenile or not before convicting them. The courts have ruled that minors under the age of 12 should not be imprisoned.

In the case of *Smt. Prabhati v. Emperor*, it was decided that such young children should be released under the supervision and care of their parents or guardians as much as feasible. Before sending a person to reformatory school, the court must have clear evidence of his or her age. It was clarified that a youngster may not be put to a reformatory school without first receiving an order of institutionalisation, or jail.

2. Jurisdiction of the Board/Court.

The question before the Supreme Court in *Ragbir's* appeal by special leave was whether a person under the age of 16 who is accused of a crime under section 302 can benefit from the Haryana Children Act. The facts are undisputed: the appellant, together with three others, was convicted of murder and sentenced to life in prison by the Sessions Judge. The High Court ruled against the appeal. Following that, the appellant sought special leave to appeal under Article 136 of the Constitution. The grant of leave was limited to the question of the Act's applicability in his situation. It is also undeniable that the appellant was under the age of 16 when he first appeared in front of the trial court. As a result, he was a 'kid' within the meaning of Cl. (d) of Section 2 of the Act.

The Supreme Court cited an earlier ruling in another instance and decided that a child's trial under the Act's provisions was not banned. However, it appears that S. 27 of the Code was not brought to the Court's attention in that case. In light of this, the two-member bench before which this appeal was heard, including one of us (*Baharul Islam, J.*), referred it to a bigger bench in order to avoid potential conflict of decisions. This is how this appeal ended up in front of this three-member Bench for a hearing. After reviewing the requirements of Section 27 Cr.P.C. and the Haryana Children Act, 1974, the court granted the appeal, throwing aside the appellant's conviction and sentence, quashing the entire trial, and ordering that *Ragbir* be handled with in line with the Haryana Children Act, 1974.

3. Apprehension and Production of Juvenile

Because of the sensitivity of the subject of juvenile apprehension and detention, the Juvenile Justice (C & P) Act has established and imposed unique duties on the police. The Act imposes the following duties on police officers in general.

1. When a 'Juvenile in Conflict with the Law' is detained by the police, he is placed under the supervision of the Special Juvenile Police Unit or a designated Police Officer, who must immediately report the incident to a member of the Juvenile Justice Board. The juvenile would be brought before the concerned Court until such a Board is established in Chandigarh.
2. SHOs will make sure that officers assigned to cases involving children are personally present.
3. A juvenile who is arrested and is not released on bond by the officer in charge of the police station will be held in an observation home until he may appear before a Board or a Court.

The Officer-in-Charge of the Police Station shall notify the Juvenile's parent or guardian as soon as possible after the Juvenile's arrest and direct him to appear at the board. Officers-in-Charge of Police Stations must notify the Probation Officer of the arrest so that he can gather information about the juvenile's antecedents and family history.

3. Suggestions

Currently, a great number of people in society are demanding that adolescents between the ages of 16 and 18 be considered as adults in cases where they have been convicted of horrific crimes such as rape, gang rape, murder, dacoity, and so on. The reason for this is that in several of the recent events stated above, minors in the 16-18 age group have been proven to be participating in severe crimes, and they are doing so with full knowledge and maturity.

They are involved in significant crimes, and they do so with full understanding and maturity.

Because of the effect of the Internet and Social Media, children's maturity levels have not remained the same as they were 10-20 years ago. A child's mental maturity comes early in today's socio-cultural environment.

As a result, in order to have a deterrent effect, such perpetrators in the age bracket of 16 to 18 should be punished as adults, so that victims can receive justice as well.

Also, according to this viewpoint, it is not only the child's fault that he or she has committed such heinous crimes, but it is also the responsibility of society to explain why society has failed to provide a proper and healthy childhood to the child, and why there were such types of discriminations and deprivations, both social and economic, that the child was forced to commit crimes; also, why the State failed to provide care and protection to its children and levied levies; and why the State failed to

As can be seen, there are strong opinions on both sides of the issue of changing or amending the Juvenile Justice Act.

Conclusion

The Juvenile Justice Act of 2016 is a significant step forward in the Indian government's efforts to keep up with shifting trends in juvenile crime. The Act takes the extraordinary step of treating juvenile offenders found guilty of terrible crimes as adults, subject to the Juvenile Justice Board's observations. The Justice Verma Committee spoke out against decreasing the age of minors who have broken the law. "Any attempt to reduce the age of juvenility, or to exclude certain children from the purview of the Juvenile Justice (Care and Protection of Children) Act 2000 on the basis of the nature of the offence or age, will violate guarantees made under the Constitution and international instruments, including the United Nations Convention on the Rights of the Child (UNCRC)," according to the report.

However, the Supreme Court of India took a position that was in direct opposition to the Committee's recommendations and warnings. It was suggested that the age of 18 was set because psychologists believed that children and juveniles up to this age are flexible and can be reformed using redeeming and restoring strategies. It was therefore proposed that placing children with adult criminals would re-socialize them and transform them into hard core criminals. This fact is taken into account by Indian courts when dealing with non-habitual criminals. The judges do not wish to overburden the prisons.

However, when the newest trends in juvenile delinquency in India are examined in terms of age patterns and types of offences committed, it shows that our juvenile justice

policy needs to be reviewed and amended (Shivani Goswami and Neelu Mehra, 2014). In the United States and the United Kingdom, similar tendencies emerged, with a peak in horrific crimes perpetrated by youths aged 16 to 18. (McDowell, L. Gary, Smith, Jinney, 1999). The United States made a shift in its juvenile justice policy, shifting from restorative to punitive measures. The same is true in the United Kingdom. In most cases, a person under the age of 18 is tried in the youth court, but in serious cases, the case may be transferred to the Crown court.

Existing regulations in India (before to 2016) were not proving to be a deterrent, according to crime trends. Children are prone to delinquent inclinations due to their continual exposure to violence and lack of awareness of the repercussions of crimes committed. The situation is exacerbated by the lack of certain people who can act as responsible guardians by providing children with information and assisting them in sifting the information they receive from various sources.

Self-control and parental control, which were once sufficient to keep individuals from committing crimes, have become weakened as a result of the rapid speed of industrialization and globalisation. In Indian civilization, primary socialisation through groups such as family, peer groups, traditional neighbourhood bonds, and intimate kin circles is rapidly becoming ineffective. As a result of all of this, current tendencies in juvenile delinquency have emerged.

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It's important to remember that the legal system is a subset of the greater social structure. Any change in the greater total, i.e. society, demands changes in the constituent parts, or smaller subsystems. As a result, while society is changing at a rapid speed, the legal system must also alter to keep up. These modifications were made by the Juvenile Justice (Care and Protection) Act of 2015.

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