



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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A CRITICAL ANALYSIS OF TRANSFERRING JUVENILES TO ADULT CRIMINALS

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ABSTRACT:

The alarming rate of increase of violent crime committed by juveniles is a serious offence in society. In contemporary era, youth are becoming more engaged in atrocious crimes and it is extremely disturbing for the society in any country. In India the upward trend of violent crimes committed by the juveniles triggered massive public outrage. The Juvenile Justice Act, 2000 was strongly criticized from all sections of the society because of its recognized deficiency in holding the child offender accountable. In the landmark Nirbhaya case, 2012, the Parliament of India immediately enacted the Juvenile Justice Act, 2015 in order to strengthen legal framework related to juvenile justice system and to appease strongest protest. According to this new Act, children aged 16 to 18 can be tried in adult criminal court, because they have committed a heinous offence. Further, it discussed the numerous aspects of recently enacted Juvenile Justice (Care and Protection of Children) Act, 2015, with its shortcomings thereof. This research examines various elements leading to adolescent delinquency and to grave crimes that are constantly committed by juveniles.

Furthermore, it evaluates how it influences on the juvenile justice framework and how the judiciary has created a balanced approach by determining the psychological maturity, social background, and nature of the offense while establishing appropriate legal measures. However, the current legislative framework is still inconsistent, numerous systematic failures in implementation significantly restrict in ensuring child protection and rehabilitation. Hence, we strongly need some more meaningful or valuable reforms and significant modifications in the rehabilitation and reintegration of juvenile justice system in order to ensure that the system effectively rebuild young offenders without sacrificing the principles of fairness and justice.

Keywords: Juveniles, Framework, Adults, Heinous Crimes.

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INTRODUCTION:

The juvenile justice system is a foundation stone of any nation's legal framework. It addresses the nuances of juvenile offenders and the main purpose of this is to balance the principles of rehabilitation and punishment. It also encourages a positive social identity and supporting lawful behaviour a juvenile justice system can successfully reduce recidivism among young offenders.

Though several studies have explored youth crimes, the exact causes regarding delinquency remain unknown. The definition of juvenile is understood as a child who has not yet attained the legal age to be held responsible for their criminal actions in the same manner as an adult but there is lack of a uniform definition of 'delinquency' as this particular term is used in various contexts in different societies. According to the experts, the term juvenile delinquency is used to describe as youthful criminal offenders. However, according to penal legislation, a juvenile is a child who is accused of committing specific omissions. Hence, it becomes necessary to draw a distinction between adults committing a crime and a minor committing a crime in India. There are certain factors which influences or can influence a minor to commit an offence. Several factors drive socio- economic hardships like poverty, unemployment, and also have lack of access to quality education and healthcare.

The primary object of Juvenile Justice (Care and Protection of Children) Act, 2000 was to establish defence, rehabilitation, and reintegration of minors in conflict with law. But after Nirbhaya case, the Juvenile Justice Act of 2015 was introduced. It has included a number of significant amendments as well as strengthened adoption, foster care, and institutional care provisions, emphasising non-institutional alternatives wherever possible. The ongoing tension between punitive and restorative approaches has drawn the attention for the need of more nuanced and sensitive framework that ensures effective rehabilitation while maintaining public confidence in the justice system.

EVOLUTION OF JUVENILE JUSTICE IN INDIA:

India had a drastic history regarding determination of the age of juveniles in conflict with law. In India the significant transformation from the colonial period to the present day, show broader shifts in societal attitudes towards children and crime.

A. Pre- Independence Era:

The first legislation that addresses juvenile delinquency in colonial India was **the Apprentices Act of 1850**. This act was to provide an opportunity for rehabilitation through apprenticeships instead of imprisonment to minors convicted of petty crimes. It reflects the colonial administration's discriminatory policies.

The Reformatory Schools Act of 1897, proposed the concept of reformatory schools, where juvenile offenders could be sent for reformatory schools rather than imprisoning them in adult prisons for a period of 7 years. The reformatory schools help in correcting behaviour by providing vocational training, moral education, and social reintegration, thereby expressing the principle of restorative justice. However, the implementation of these measures remained inconsistent, and many minors were still experiencing harsh treatment due to inadequate restoration system.

B. Post-Independence Developments:

The Children Act, 1960 was the first central legislation that was designed to formulate appropriate system, separate from the criminal justice system under the Code of Criminal Procedure, 1973, for the treatment of juvenile delinquents. It defined a "child" to be a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years. It also established the principle of **parens patriae**, that strengthen the opinion of moral and legal obligation to safeguard and rehabilitate juvenile offenders rather than punishing them. However, the implementation of this Act is resulting in disparities in the treatment of juveniles based on regional differences in legal and administrative capacities.

In 1986, the Juvenile Justice Act was enacted to replace the fragmented legal framework established under the Children Act of 1960. The 1986 Act introduced two distinct categories: "juveniles in conflict with the law" and "juveniles in need of care and protection". Moreover, it was necessary to create Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) in order to ensure a fair trial and appropriate rehabilitative measures.

C. Modern legal framework:

When India accepted the United Nations Convention on the Rights of the Child (UNCRC) in 1992, it pointed out that rather than subjecting to punitive measures, minors should be treated with dignity and afforded opportunities for rehabilitation must be provided. After this, the Indian government enacted **the Juvenile Justice (Care and Protection of Children) Act of 2000** that initiated various key reforms, including building of separate homes for boys and girls,

the statue of legal aid for juveniles, and to evaluate the background and mental condition of juvenile offenders, social investigations is extremely required.

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015, has brought modifications to the current statutory framework in India. The unambiguous difference between “**juvenile**” and “**child**” has been outlined. It also formed two distinct categories, such as “**child in conflict with law**”, which is for a minor accused of an offence, and “**child in need of care and protection**”, which is for a child who is neglected, exploited or abused.

Public perspective towards the juvenile justice system has changed tremendously after landmark case of Delhi gang rape (Nirbhaya case), a minor accused was involved who was just around 6 months short of turning 18. The juvenile was tried under the Juvenile Justice (Care and Protection of Children) Act, 2000 and a criminal received the maximum sentence of three years in a juvenile correctional facility. This led to huge public outrage thereby demands for harsh punishment against minors involved in heinous crimes because there was a growing concern that older juveniles involved in heinous crimes were mature enough to understand the repercussions of their actions and should eventually be held accountable under the same standards as adults. It was argued that the burgeoning incidence of serious crimes committed by minors is main reason that compelled to have more deterrent framework to prevent recidivism and protect public safety. In result, the government enacted the Juvenile Justice (Care and Protection of Children) Act of 2015 that allows minors aged 16 to 18 to be tried as adults in cases of heinous offenses which was considered as significant shift towards retributive justice.

A CRITICAL ANALYSIS OF JUVENILE JUSTICE SYSTEM:

Despite, the present Juvenile Justice (Care and Protection of Children) Act, 2015 has a robust legal framework but various gaps, implementation challenges, contradictions to women protection still exist in this particular act. So, significant shortcomings are mentioned as below:

- I. Determination of age and trial of juveniles as adults:** It might be complicated or hard to precisely figure out a juvenile's age due to absence of and faithful techniques for age assessment which is crucial for choosing how to treat juveniles under this Act. At one end, several child rights advocates argue that placing juveniles in the adult criminal

justice system increases their exposure to hardened criminals and risks further criminalisation rather than reform. On the other hand, there are numerous articles in Indian constitution for instance article 24, 21A, 39 (e) and 39(f), article 45 does not have consistent definition of child as it has distinct age groups under these different provisions. Generally, the age of majority in India is 18 years, but the major change was brought in the 2015 Act, it removed the uniform age of 18 years, now 16 to 18 years juveniles will be sent to a children's court that can sentence them. However, it is necessary to focus on article 14 of the Indian constitution which guarantees equality before the law and equal protection of the laws within the territory of India, that clearly shows the violation of basic fundamental rights and it also violates the long-standing legal principle of doli incapax, which presumes that minors, particularly those under 18, cannot form the criminal intent, resultantly the law may not treat them as completely responsible for what they did. In contrast, arguing that some adolescents possess sufficient maturity to understand the gravity of their actions, eventually this provision is supported as it provides justice in extreme cases where juveniles commit grave and violent offences such as gang rape and murder.

II. Implementation Gaps: Even though, it has progressive provisions regarding Juvenile Justice Act in 2015, but it has faced significant limitations at the ground level. Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) are not working efficiently due to which there have been complaints regarding overcrowded juveniles' homes, unsanitary condition, poor facilities, child neglect and physical assault.

It indicates lack of cooperation and incompetent professionals who are not able to handle complicated issues in efficient manner. Thus, they must present the child to the welfare board for assistance, security, growth, and training, but, lack of such disciplinary checks is failing to prevent all juveniles from committing crimes again.

III. Lack of adequate infrastructure and financial resources: Even today, insufficient budgetary distribution and delayed release of funds further weaken the capacity of state governments to establish and maintain child friendly institutions. Owing to this reason, existing institutions mostly suffer from overcrowding, poor living conditions, and inadequate facilities for education, healthcare, and recreation. As a result, it slows down their rehabilitation and violates the principles of dignity and care envisaged under the law.

RECOMDEATIONS AND CONCLUSION:

There is a sharp rise in crimes committed by juveniles that set a trend world over. It is a burning issue for the nation as well which is needed to be handled carefully.

The children are strong imitators. Primary educational institutions as well as families must develop ethical responsibility and accountability, the spirit of tolerance, patience and endurance which empowers them to manage real life situations. Parent training programmes, close supervision of Observation Homes and Shelter Homes, etc must be ensured for preventing delinquency. However, public participation and public awareness can possibly assist the vulnerable children living in complicated situation in bringing back into real or normal social life.

Beside this, the strict accountability of Juvenile and Child Welfare Officer must be maintained through regular inspections. Moreover, numerous inspirational and awareness programs, communication campaigns, pamphlets, tv programs, schemes and policies should be planned in such a way that they can at least understand the basic requirement of educating children and teach their kids to identify how to handle life and understand the important fact that committing crime is wrong.

Ultimately, the better mechanism and public awareness is significantly required to curtail juvenile delinquency. A robust and effective legal framework that could successfully balances the rehabilitation of youth with accountability to ensure justice.

REFERENCES:

<https://www.livelaw.in/articles/child-in-conflict-with-law-and-juvenile-justice-act-critical-analysis-312769>

[https://blog.iplayers.in/introduction-overview-juvenile-justice-care-protection-act-2015/#The Historical Evolution of Juvenile Justice Act in India](https://blog.iplayers.in/introduction-overview-juvenile-justice-care-protection-act-2015/#The_Historical_Evolution_of_Juvenile_Justice_Act_in_India)

<https://ijlmh.com/wp-content/uploads/Juvenile-should-be-Treated-and-Tried-as-Adults-in-Rape-Cases.pdf>

<https://nluo.ac.in/storage/2026/04/4.-When-Children-are-Tried-as-Adults-A-Critical-Analysis-of-the-Role-of-Childrens-Courts-Under-the-JJ-Act-2015.pdf>

[THE-ALARMING-RISE-OF-HEINOUS-CRIMES-BY-JUVENILES-IN-INDIA-AN-EVALUATION-OF-CONTRIBUTING-FACTORS-AND-THE-NEED-FOR-EARLY-](#)

[INTERVENTION.pdf](#)

[Heinous-Crimes-Committed-by-the-Juvenile-against-Women-in-India-With-Special-Reference-to-Juvenile-Justice-Act-2015.pdf](#)

<file:///C:/Users/advoc/Downloads/The-Juvenile-Justice-Care-and-Protection-of-Children-Act-of-2015.pdf>



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