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REFORMING JUVENILE JUSTICE IN INDIA: A CRITICAL STUDY OF LEGAL FRAMEWORKS AND IMPLEMENTATION.

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Abstract

The youth represent the future of our society, and it is imperative that we safeguard their rights and ensure they have access to opportunities for comprehensive growth. The objective of the juvenile justice system is grounded in the rights of the child. The juvenile justice system prioritizes prevention as a key goal and considers custody to be a measure of last resort. Nonetheless, the harrowing gang rape incident that occurred in Delhi on December 16, 2012, emerged as a pivotal case that transformed the current framework of the Juvenile Justice System. Upon the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015, significant criticism emerged from numerous social workers and NGOs advocating for children's rights. This backlash was largely a response to public outrage stemming from the release of the juvenile offender in the case of State v. Ram Singh & Ors., commonly known as the Nirbhaya case. The authors have examined in this article the different facets of the recently enacted Juvenile Justice (Care and Protection of Children) Act, 2015, along with its shortcomings.

Keywords: Juvenile, Child in conflict with law, Rehabilitation, Age of criminal responsibility.

1: Introduction

The objective of the juvenile justice system is grounded in the rights of the child. The focus of juvenile justice is on prevention as a primary objective, while also considering custody as a sanction of last resort and for the shortest possible duration, taking into account the effects on both the victim and the community. A significant number of individuals categorized as 'children in conflict with the law' are victims of socio-economic circumstances, deprived of their fundamental rights to education, health, shelter, care, and protection. This article presents a critical analysis of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as J.J.A. 2015). Despite being amended several times in 2000, 2006, and 2015, it still warrants serious attention from the author's perspective. It is often stated that the law must be modified occasionally to align with the evolving needs of society. Simply reducing the age of juveniles from 18 to 16 years, even in exceptional cases, does not address the widespread involvement of young individuals in serious crimes.

The authors have chosen this topic because of the increasing participation of children in criminal activities. Following the unfortunate incident of the Delhi gang rape case, there was widespread agitation globally to take serious action and prevent such heinous crimes in the future. It is noteworthy that the individual accused of being most actively involved in the act of brutal gang rape was a minor, specifically 17 years old. Law blindly believes in a Latin phrase, i.e., "Doli incapax," which means a child is incapable to commit a crime. However, it appears that children are reaching maturity at an increasingly earlier age. The maturity of a child varies from one individual to another and changes with age. The authors will examine the age of maturity in children, its characteristics, and whether a child should be exempt from criminal liability based on maturity or age. In this context, it is essential to examine the various facets of

the current juvenile justice system, along with its deficiencies and the enhancements required.

HISTORICAL CONTEXT

The Apprentices Act of 1850 was the first piece of legislation that attempted to address the problem of minors who were in confrontation with the law. The Declaration of the Rights of the Child was unanimously approved by the General Assembly of the United Nations on November 20, 1959, at a plenary session that was attended by representatives from 78 different countries. The declaration was signed by India as a participant. During the same year, the Children Bill was presented to the Parliament for consideration. In the year 1960, the first model central legislation pertaining to the issue was passed into law. There are two adjudicatory bodies that were formed by the Children Act of 1960 in order to resolve matters that pertain to children who are in dispute with the law and those who are in need of care and protection. The imposition of the death sentence or imprisonment on minors, as well as their incarceration in prisons or police stations, was outlawed under this law.

In the case of *Sheela Barse v. Union of India*, [1] which was heard by the Supreme Court of India in 1986, the court issued an order mandating that the delivery system that is appropriate for juvenile offenders be implemented in every state. Furthermore, the court mandated that reports on the implementation of such systems be reported to the court. The Juvenile Justice Act, 1986, which will be referred to as J.J.A. 1986 from this point forward, was passed into law by the Parliament in the same year. On the other hand, this Act was only in existence for a short period of time until the Juvenile Justice (Care and Protection of Children) Act, 2000 was passed by Parliament (which will be referred to as J.J.A. 2000 from this point on). The Juvenile Justice Act of 1986 was replaced by this Act, which specified that a kid, regardless of gender, is defined as a person who has not yet attained the age of 18 years old. This Act also turned away from

a definition of juvenile that discriminated based on gender. Taking into account the standards that were established by the UN Convention on the Rights of the Child as well as the worldwide agreement on establishing the age of 18 as the threshold for criminal responsibility, this was done.[2] We now have the J.J.A., 2015, which was adopted as a result of public pressure following the horrible gang rape case of Nirbhaya. This Act continues to evolve in response to its faults, and we now have it.

DEFINING A JUVENILE?

Before delving into the many offenses that are committed by young people, it is necessary to first establish the criteria that determine who is considered a juvenile. The term "juvenile" is used to describe a youngster who has not yet attained the age of maturity required to understand the difference between right and wrong. A juvenile is a kid who has not yet reached a certain age at which they may be held accountable for their illegal activities in the same manner as an adult according to the laws of the nation. This is the definition of a juvenile from a legal standpoint. A person who is under the age of eighteen years old is considered to be a juvenile, as stated by the Juvenile Justice Act published in 2015.[3] In the context of trial and punishment, juveniles should not be considered as adults, even if they are involved in criminal conduct. The only exception to this rule is for individuals who are between the ages of 16 and 18 and have committed very egregious offenses.[4] As was noted before, the court is willing to decide whether or not a juvenile should be considered as an adult; however, this decision is only made in extraordinary circumstances. The J.J.A. 2015 amendment may be found here. It was introduced not too long ago. In India, a juvenile is differentiated from an adult in reference to any crime that they have committed throughout their lifetime.

WHO IS A "CHILD IN CONFLICT WITH THE LAW"?

The term "child in conflict with the law" refers to a youngster who has not yet reached the age of eighteen years on the day that offense was committed and who is accused or determined to have committed an offense.

When this definition is taken into consideration, it becomes crystal evident that a kid who is less than 18 years old is deemed to be a minor. For the purpose of ensuring the total development of children, the Constitution of India includes unique provisions within the Chapter of Fundamental Rights. It is also important to note that Article 15(3) stipulates that "nothing in this Article shall prevent the state from making any special provision for women and children." A result of this clause is the Juvenile Justice Act, which was passed in 2005. In addition, the Indian Penal Code (45 of 1860), namely Sections 82 and 83, extends protection to minors against criminal culpability on the basis of their age. There is no question that all of these measures are for the improvement and for the excellent future prospects of the children; nevertheless, it is now the height of time to consider about youngsters who are involved in a cruel crime, and shockingly enough, they are juveniles, which means they are under the age of 18. The result of this decision is that juveniles are completely immune from criminal culpability, and this exemption is granted without taking into account the nature of the offense, the maturity of the child, or his behavior. Therefore, there are situations when the law demands us to consider whether or not the law is in favor of juveniles.

DATA FROM THE NCRB WITH REGARD TO OFFENSES COMMITTED BY JUVENILES

The most recent data published by the National Crime Records Bureau (NCRB) in late 2024 reveals that, for the year 2023, there has been a slight increase in the documented cases of juvenile delinquency in India. In

2022, there were 30,555 documented instances, whereas the cases registered against "Children in Conflict with Law" totaled 31,365, reflecting a 2.7% increase in the number of such cases. The crime rate per lakh population increased from 6.9 to 7.1, reflecting a minor upward trend. In this time frame, a significant portion of the 40,036 juveniles taken into custody fell within the age range of 16 to 18 years, accounting for 79.0% of the overall total.[5] Maharashtra and Madhya Pradesh continue to demonstrate the highest rates of adolescent offenses, a pattern that has been consistently noted over a significant duration. It is important to acknowledge that socio-economic variables play a crucial role in these data. Approximately twenty-five percent of the juveniles apprehended demonstrated an inability to read or write, with a notable portion having recently completed only elementary education. Furthermore, the data reveals that more than eighty percent of these children lived with their parents or guardians at the time of the offense. This highlights that delinquency is frequently shaped by external systemic factors such as economic hardship and urban vulnerability, rather than being solely attributed to a deficiency in family structure.

THE NIRBHAYA CASE WAS A PIVOTAL EVENT THAT TRANSFORMED THE LEGAL LANDSCAPE

The Nirbhaya Case was a significant event that marked a turning point in the history of the judicial system. Everyone here is in a state of disbelief after hearing the awful news of the gang rape case in Delhi, which resulted in the death of a girl who was 23 years old. The heinous nature of the murder caused a considerable amount of worry, anger, and condemnation among people all across the world. The only person who was exempt from the death penalty was a juvenile who was 17 years old at the time the crime was committed. All of the other persons who were accused of involvement in this crime were

sentenced to death. On December 20th, three years after his conviction and sentence, the person, who is now 21 years old, was freed from custody in accordance with the Juvenile Justice Act of 2000. As a consequence of the fact that he was a youngster, he was completely immune from the mandatory death sentence and was protected by the terms of the Young Justice Act of 2000. After doing a thorough investigation into the juvenile's behavior, it was discovered that he was completely aware of his acts. This demonstrates a degree of maturity that shows he was aware of the implications that would result from his decisions. When all of these factors were taken into consideration, it was completely impossible to impose a term of merely three years in jail.

As a result of the terrible Nirbhaya rape case and the tremendous public outcry both nationally and internationally, the Parliament of India made a number of modifications to the laws that govern sexual offenses committed against women. As stated in section 375 of the Indian Penal Code (45 of 1860), the definition of rape has been modified. This change was made in order to update the definition. According to the definition that is now in effect, simple penetration is no longer regarded to be an essential prerequisite. Any conduct that involves putting an item into a woman's vagina or using the tongue on her vagina in order to coerce her into engaging in sexual intercourse would be considered an additional offense that falls under the category of rape. As an additional point of interest, the Minister of Women and Child Development, Maneka Gandhi, introduced the Juvenile Justice Bill 2015 with the intention of reducing the age at which juvenile offenders are considered to be liable for their unlawful activities. As a result of the recent law, the age of criminal responsibility has been effectively decreased from 18 to 16 years, with exceptions being allowed only in exceptional situations. It seems that the rapid passing of the measure was a response to the public pressure

that was surrounding the release of the juvenile who was convicted in the gang rape and murder of Nirbhaya, a victim who was 23 years old, on December 16, 2012. The question that has to be asked in this day and age is whether or not a simple reduction in the age of criminal responsibility for juveniles from 18 to 16 years old would be sufficient to successfully contribute to the prevention of severe crimes committed by adolescents. The query has to be explicit and free of any ambiguity.

WHAT WAS THE SIGNIFICANCE OF THE JUVENILE JUSTICE ACT OF 2015?

It is possible for juveniles between the ages of 16 and 18 who have been accused of serious offenses, which are those that carry a penalty of seven years or more in prison, to be prosecuted and punished as adults under the current Act, which is known as the J.J.A., 2015. Concerns of a considerable kind have been raised with regard to the compatibility of this method with the Constitution of India and the United Nations Convention on the Rights of the Child (UNCRC). When compared to the provisions that were accessible fifteen hundred years ago, the new Act reflects a substantial shift in the historical context of children's rights in India. This is especially true when the new Act is compared to the provisions that were available. In particular with regard to sexual offenses, the Justice J.S. Varma Committee has decided without putting up any suggestions for changes to the legislation that pertains to juvenile justice. As a consequence of this, it was not necessary to submit juveniles to a separate or adult court system because doing so would be in violation of Article 14 and Article 15(3) of the Constitution of India, 1949, respectively.[6]

THE JUVENILE JUSTICE ACT OF 2015 HAS A FEW SHORTCOMINGS THAT NEED TO BE ADDRESSED

The practice of permitting minors to be tried as adults for significant offenses has the potential to unwittingly

exacerbate the problem of juvenile crime and result in a rise in the number of persons who participate in criminal conduct. The purpose of this Act is to show that it is not reasonable to presume that juveniles have the competence to stand trial as being equivalent to adults. Heinous offenses are defined as those that result in a jail term that is more than seven years, according to one standard definition. It is possible for teenagers between the ages of sixteen and eighteen to be prosecuted as adults for at least forty-six different offenses to be committed. [7] Despite the fact that this scenario is primarily concerned with homicide and rape, several legal frameworks, like the NDPS Act, the MOCCA Act, and others, also provide for the possibility of prosecution of juveniles as adults.

Theft, criminal trespass, and breaking and entering are examples of property-related offenses that account for a sizeable share of the offenses that result in the arrest of adolescents. It is important to give thorough thought to this particular aspect. The rate of homicide and rape that occurs within this group is rather low in comparison to other groups. A violation of the constitutional concept of equality as well as international norms would occur if juveniles were to be subjected to the criminal justice system that is reserved for adults. There is a notable absence of a provision in this Act that specifies the minimum age at which a person acquires criminal responsibility.

It is not immediately evident what the reasoning was for the inclusion of the category of severe offenses.[8] The empirical data demonstrates that there has not been a significant rise in the number of crimes committed by children, which suggests that the plan to remove certain children from the educational system is not adequately justified when compared to the current situation. An investigation into the United States finds that in 1996, the installation of a policy that was intended to exclude juveniles who had committed major crimes coincided with a much greater percentage of crimes committed by juveniles. Every

semester, there were around 8,000 violations perpetrated by children and teenagers.[9] There was no adoption of the viewpoint that would reduce the age of juvenility by putting children's rights ahead of other considerations in India.

The data on crimes provided by the NCRB is somewhat inaccurate, as it relies on the number of First Information Reports (FIRs) lodged instead of the number of cases proven in courts of law. Crime statistics can serve as a valuable asset in enhancing a political campaign within the media; however, they may lead to misleading conclusions regarding public policy development if not examined alongside other contextual factors. The case of the gang rape in Delhi in 2012 illustrates how the significant public reaction to the release of a juvenile offender indicated that policy decisions were influenced more by emotional responses than by objective analysis of the facts.

A WORRY FOR THE JUVENILE JUSTICE SYSTEM ON A GLOBAL SCALE

In this respect, the United Nations Asia and Far East Institution played a significant role, which ultimately resulted in the ratification of the Standard Minimum Rules for Administration of Juvenile Justice by the Seventh United Nations Congress on Prevention of Crime and Treatment of Offenders in September of 1985. The United Nations General Assembly decided to adopt these guidelines in November of 1985, and they embodied the key ideas that are listed below. Legal protections that have been properly crafted should be provided to juveniles who are dealing with legal concerns. It is recommended that pre-trial custody be used only as a last resort. Those who are considered to be juveniles or children who have committed offenses should not be housed in facilities where they are exposed to the potentially harmful influences of adult criminals.[10] It is not suitable to incarcerate juvenile offenders unless there is no alternative appropriate reaction that would both secure the safety of the general public and provide the

youngster with the opportunity to learn self-control. In order to guarantee that every young person has access to chances that will lead to a life that is meaningful and useful, member states should act together as well as individually to achieve this goal.

REQUIREMENT FOR TRANSFORMATION: OUR VIEWPOINTS

Advocating for children's rights is essential to ensure that their best interests are protected. It is essential to carefully consider the core goals and objectives of the Juvenile Justice System when implementing any modifications. The analysis indicates a lack of evidence to justify the reduction of the juvenile delinquency age from 18 to 16 years. This conclusion is based on the potential for severe offenses to be perpetrated by individuals younger than 16 years. The determination of a child's breach of the law should not primarily hinge on age as a criterion. Another factor that the court must consider is the extent to which a young individual possesses the competence to understand the consequences of their actions. Based on previous statements, the age requirement should have remained at 18 years instead of being reduced to 16 years, in accordance with the stipulations of the J.J.A., 2000. The maturation of children occurs continuously, complicating the determination of the age at which they can be deemed responsible for criminal behavior. In circumstances such as these, it is suggested that if it can be demonstrated unequivocally that a child has committed an offense in an exceptionally brutal manner, and this offense is classified among the most extreme cases, then the child should receive a more stringent sentence. In the Nirbhaya case, it would have been appropriate for the primary accused to receive a sentence exceeding three years of incarceration, incorporating hard labor as part of the punishment.[11] His capacity for committing acts of assault and rape parallels his ability to endure severe incarceration accompanied by manual labor. Given the situation, it

is imperative that the accused individual receives no leniency whatsoever.

A minor who finds themselves in conflict with the law, regardless of the severity of their offense, should not be subjected to adult trial. Placing them alongside seasoned offenders could lead to their transformation into a hardened criminal in the future. We propose that specific amendments be introduced in the Juvenile Justice Act of 2015 to enable the Juvenile Justice Boards to impose stringent penalties in the most exceptional cases, accompanied by a focus on the rehabilitation of the child. Special houses have been established under the Juvenile Justice Act of 2015 for children who are in conflict with the law. These homes have the potential for long-term preservation, and it is unnecessary to incarcerate the juveniles, as they do not exhibit characteristics of hardened offenders. While residing in specialized facilities, the individual categorized as a "child in conflict with the law" will be obligated to engage in various labor-intensive tasks, aimed at fostering reflection on their behavior and potentially encouraging remorse for their actions.[12] We will implement the required measures to guarantee that he receives his education exclusively within the parameters of a specialized home. Furthermore, it is essential to categorize the "child in conflict with the law" into distinct groups according to their age and the nature of the offense committed.

CONCLUSION

The legislators of our nation appear to have neglected the fundamental objective of the J.J.A. 2015, which is to deliver rehabilitative services. Reducing the age of juvenility from 18 to 16 years old lacks practicality and compelling justification. The alteration of J.J.A.2000 was implemented in response to the severe implications of the Nirbhaya rape case. We are not proposing that a juvenile involved in a gang-rape case should have been exonerated; instead, we are advocating for an alternative form of punishment for them. However, reducing the age of juveniles does not

address the underlying issue. If a 15-year-old commits a serious crime such as rape with murder, will we then consider lowering the juvenile age limit again from 16 to 15? The age of criminal responsibility is notably lower in various countries compared to India, which can be attributed to the higher crime rates observed in those nations. Considering the global standards set for children's rights, particularly the fundamental rights enshrined in the Constitution of India, the J.J.A.2015 has been enacted. The introduction of this Act prompted significant criticism from numerous social workers and non-governmental organizations (NGOs) advocating for children's rights. The children are considered valuable assets of the nation, and it is our duty to protect their rights and provide them with opportunities to participate in activities that will foster their overall development.

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