

## **Juvenile Delinquency in Context of India**

There is a large unequal distribution of wealth in Indian society. Here, on one hand, a class of children gets a high-class education and a high living standard. But on the other hand, some children use to beg on roads for a single piece of roti. Some juveniles use to speak fluent English, learn in royal convents, and some juveniles don't even have even proper alphabetical knowledge.

In villages, the juveniles are forced to work in the fields by their family. There they experience the pressure of work. They are tortured and abused. In city slums, the juveniles are sent to factories by their families. There also their harassment takes place.

They see the un-equality and their gentle mind reacts for the same. The desire for a luxurious life by the influence of mass media and the impact of western civilization has greatly affected the mindset of modern Indian youth[1]. They get involved in alcoholism, theft, and fraud. Their small deviance leads them to non-cognizable offences, such as cheating, defamation, etc. Their greater deviance leads them to greater crimes that are cognizable, such as, rape, murder, kidnapping, etc. Today, they are also found involved in cyber-crimes.

### **History**

From the colonial period, there was a requirement for the protection of juvenile rights and the prevention of juvenile delinquency. Several efforts were made by the authorities such as the Apprentices Act, 1850, the Reformatory Schools Act, 1897, the Children Act, 1960, etc[2]. There was no uniform legislation that apply to the whole of India because the subject matter of such legislation was falling under the State List of the 7th schedule of the Constitution of India[3].

It is assumed that the parliament of India has used his powers under entry 14 of the union list so as to make law over juvenile justice after the United Nations proposed the Beijing Rules, 1985[4]. Therefore, the first uniform law 'the Juvenile Justice Bill, 1986' was introduced On, 22nd August 1986, in the Lok Sabha[5].

### **The Juvenile Justice Bill, 1986**

Chapter 4 of this act dealt with delinquent juveniles that are from section 18 to 26. Section 18 dealt with the bail and custody of juveniles. There is was mentioned that if the juvenile is arrested for any offence, he/she shall be released on bail[6]. If there is the reasonable risk that if the release of

a juvenile is likely to bring him into association with any known criminal or expose him to moral danger then the juvenile shall despite being kept in jail be sent to an observation home[7]. section 7 of this act prescribed the formation of special juvenile courts[8]

Section 22 of the act made it very clear that no delinquent juvenile shall be sentenced to death or imprisonment, or committed to prison in default of payment of fine or in default of furnishing security[9]. It also said not to use the criminal procedure in detention of a juvenile[10]. Also, it stated that a juvenile and another person who alone did the same offence shall not be tried together[11].

This act was continued to work for 14 years and secured juvenile rights.

### **Juvenile Justice (care and protection of children) Act, 2000**

Juvenile Justice Act 2000 was a modification of the Act of 1886 as there were found some loopholes in that.

The Act categorized the children into two categories [12]:

- Juveniles in conflict with the law (Chapter II), and
- Child in need of care and protection (Chapter III).

Under this act, the age of both male and female juveniles became uniform but it didn't classify the age of juvenile offenders[13]. As section 2(c) of the act defined juvenile as juvenile" or "child" means a person who has not completed the eighteenth year of age.[14] Chapter II of the act established juvenile justice board concerning the juveniles in conflict of law[15].

This Act aimed to make a friendly approach in the disposal of matters related to juvenile delinquency and also to provide care and protection to juveniles. There are various institutions established under this Act for the rehabilitation of juveniles. Section 29 of the act established Child Welfare Committee in each state[16]. Section 63 implanted special juvenile police units for delinquency control[17].

This Act was amended in 2006 which the provisions of the Juvenile Justice Act were effective over all other laws. The amendment made it compulsory for each State to constitute a Juvenile Justice Board in every district within one year of the amendment[18]. It was also a question that whether

those persons be called juveniles who have done a delinquent act and attained majority at the time the law imposed.

In the case of, Partap Singh v. the State of Jharkhand[19], the hon'ble supreme court held that:

There will be no any benefit from the law if the juvenile continues to be in the company of an adult. The act of 2000 intends to give the protection only to the juveniles and not to an adult. That means, this law shall apply to any juvenile who has not attained the age of 18 years but it shall not apply to a person who has attained the age of majority.

This decision lead to the amendment of the act of 2000 in the year, 2006[20]. Up to now, the acts were said to be implemented half-heartedly. There was no provision for the heinous crimes done by juveniles with delinquent motives.

### **Nirbhaya Case: The Change of mindset**

On, 16 December 2012, there happened a brutal rape of a woman in a moving bus in Delhi. The rapists not only raped her but also molested her and even inserted the iron rods and their hands into her vagina and rectum and pull out her internal organs. The rectovaginal septum was completely torn[21]. The 23-year-old woman failed to survive and died after battling for her life.[22]

It was found that one of the convicts was a minor. The intention of the accused persons was not only to commit gang rape but also to rob and kill the woman and destroy all the possible shreds of evidence so that they could not be tracked by police.[23] After such a heinous offence Nirbhaya and her friend were thrown out of the bus in naked condition.

Juvenile delinquency is seen in the Nirbhaya Gang Rape. This incident may be used as an illustration to mention the problem of half-hearted implementation of the Juvenile Justice Act, 2000[24]. The delinquent juvenile who was involved in that crime had spent his life on the streets as he was separated from his family at the early age of thirteen[25].

It is assumed that during this period while he was a street child, he came in close contact with criminals and deviants[26]. This child had faced all the problems which the street children face. This exposure made him deviant. Parental guidance and affection are needed for a child. It is very difficult for a juvenile to live without a family.

As this child had no family, he needed care, protection, security, and sympathy from society. No one was there to care for him. The Juvenile Justice Act, 2000 was only useful when the child had committed the crime. The child required care and protection.[27] It was also a question that where the convicts of such heinous crimes shall be treated as juveniles or not?

This further paved the way for the JJ (care and protection) act of 2015.

### **Juvenile Justice (care and protection) act, 2015**

With this act, the scenario of conflict with the law of juveniles was changed. The motive of this act was to implement the better solution of cases of juveniles in conflict with the law and the rehabilitation and protection of juveniles as per the principle of social justice to be applied[28]. This act allows such juveniles of 16-18 years of age to be treated like an adult which has done heinous crimes.

This act further mentioned general principles of care and protection of children[29]. Chapter II of this act contains certain general principles of care and protection of children which are to be followed by the state for administration. Chapter III is on the Juvenile Justice board. Chapter V establishes a child welfare committee and section 27 of the act provides for the same[30]. Here, in this act, section 15 deals with the crime committed by persons of age 16 to 18 years.

It states:

In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment concerning his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order following the provisions of subsection (3) of section 18."[31]

### **Certain cases regarding juvenile delinquency**

Arnit Das v. the State of Bihar[32], in this case, the plaintiff was convicted for the charges of murder under section 302 of IPC. The murder was committed on 05.09.1998. the plaintiff claimed that his date of birth is 18.09.1982. Therefore, he is a juvenile and is entitled to protection under Juvenile Justice Act. He was thus sent to a Juvenile home, Patna by Add. Chief Judicial Magistrate, Patna.

But after the examination of the Medical Board, it was, later, came into consideration that the boy was above 16 years. The question before the supreme court was that what will be the determining age of the juvenile for care and custody. Either it will be the age of committing the offence or it will be the present age.

There hon'ble Supreme Court said that Juvenile Justice involves social justice. The check of delinquency falls within the scope of social justice and therefore great care shall be taken at the time of investigation, inquiry, and trial of a juvenile. There, for being a juvenile the age prescribed under the act was 16 for boys and 18 for girls. The court said that it is irrelevant to take the date of commission of the crime for care and custody.

Raju Vs State of Haryana[33], In this case, on dates 14 Sep 2000, a woman aged fifteen years was passing by the fields along with her one-year-old brother. There, the appellant Raju and two other persons Raju and Raja intercepted her and taken her to a nearby field where the other two persons engaged in gang rape with the woman, and the appellant was standing outside the field and didn't involve in the act of gangrape.

All the three accused were punished for the imprisonment of 10 years after being convicted under sec. 376(2)(g) IPC. After this punishment, the appellant moved to the High Court saying that he was less than 18 years of age at the time of the commission of the offence and therefore he is entitled to take benefit of JJ act 2000.

Hon'ble high court enquired and checked the age of the appellant and found that the actual date of birth of the man is 12 July 1984 and he was of 16 years 2 months and 2 days old at the time of the commission of the offence. Thus, the appellant satisfies the conditions under sections 2(k) and 2(l) of the JJ Act 2000.

Also, section 7-A and section 20 apply to the man. The court found that the juvenile has already been spent 6 years in imprisonment wherein section 15(1)(g) of JJ Act 2000a juvenile may be sent to a special home for 3 years. The appellant was therefore released.

## **Conclusion**

juvenile delinquency is a socio-legal issue. Sociologists like Robert Merton in his Anomic theory of deviant behaviour describes the exertion of definite pressure by various social structures over


an individual. This pressure makes him delinquent. Edwin Sutherland makes the company of a person responsible for his deviance. Carl Marx says that the unequal distribution of wealth and resources is responsible for such delinquency.

Delinquency in juveniles is a great social issue and to deal with it great care is required. Children are very soft-minded. They have less maturity. They are in the stage of behavioural learning and their mind responds very quickly when they see discrimination, un-equality, hatred, violence, etc. nowadays when various websites start a plan to 'make an account on them and get some cashback'. These kids, who are not mature, to earn some money, start making accounts of strangers and asks them for OTP. By this, they do fraud.

Society is responsible for the crime which takes place in it and crime is caused as per social response over activities. There requires proper care and custody of such delinquent juveniles.

End-Notes:

1. Juvenile Delinquency in India, available at <http://www.legalservicesindia.com/law/article/1294/17/Juvenile-Delinquency-In-India>, visited on 6 September 2021, at 2:20 PM
2. Id.
3. Id.
4. Id.
5. Id.
6. The Juvenile Justice Act, 1986, ¶ 18, No. 53, Acts of Parliament, 1986 (India).
7. Id.
8. The Juvenile Justice Act, 1986, ¶ 7, No. 53, Acts of Parliament, 1986 (India).
9. The Juvenile Justice Act, 1986, ¶ 22, No. 53, Acts of Parliament, 1986 (India).
10. The Juvenile Justice Act, 1986, ¶ 23, No. 53, Acts of Parliament, 1986 (India).
11. The Juvenile Justice Act, 1986, ¶ 24, No. 53, Acts of Parliament, 1986 (India).
12. Sujata Manohar, Human Rights of the Child ¶ Implementing the Juvenile Justice (Care and Protection of Children) Act, 2000, (2008) 2 SCC J-1
13. Juvenile Delinquency in India, supra. <https://www.lawfinderlive.com/Articles-1/Article28.htm?AspxAutoDetectCookieSupport=1>,
14. The Juvenile Justice (Care and Protection of Children) Act, 2000, ¶ 2, No. 56, Acts of Parliament, 2000 (India)
15. The Juvenile Justice (Care and Protection of Children) Act, 2000, ¶ 4, No. 56, Acts of Parliament, 2000 (India).
16. The Juvenile Justice (Care and Protection of Children) Act, 2000, ¶ 29, No. 56, Acts of Parliament, 2000 (India).
17. The Juvenile Justice (Care and Protection of Children) Act, 2000, ¶ 63, No. 56, Acts of Parliament, 2000 (India).
18. Sujata Manohar, Supra. note

19. Partap Singh v. the State of Jharkhand, 2005(3) SCC 551
20. Sujata Manohar, Supra. note
21. State v. Ram Singh, 2014 SCC OnLine Del 1138.
22. Crime And Punishment: on Nirbhaya Case convict Hanging, <https://www.thehindu.com/opinion/editorial/crime-and-punishment-the-hindu-editorial-on-hanging-of-nirbhaya-case-convicts/article31122483.ece>,
23. State v. Ram Singh, 2014 SCC OnLine Del 1138.
24. Kumar Aksand Pandey, Brain Science, Juvenile Delinquency and the Juvenile Justice (Care and Protection of Children) Act, 2015: A Critique, 7 RMLNLUJ (2015) 54
25. Id.
26. Id.
27. Id
28. Kavisha Gupta, All About Juvenile Justice (Care and Protection) Act 2015, LATEST LAWS, (11 Sep 2021, 11:28 AM)
29. [https://www.latestlaws.com/articles/all-about-juvenile-justice-act-2015-care-and-protection-of-children-by-kavisha-gupta/#:~:text=\) Act2C 2015 3F-,Ans2D The Juvenile Justice \(Care 26 Protection of Children\),proper care 26 nourishment2C protection2C](https://www.latestlaws.com/articles/all-about-juvenile-justice-act-2015-care-and-protection-of-children-by-kavisha-gupta/#:~:text=) Act2C 2015 3F-,Ans2D The Juvenile Justice (Care 26 Protection of Children),proper care 26 nourishment2C protection2C).
30. Ayush Verma, Introduction and Overview of Juvenile Justice (Care and Protection) Act 2015, IPLEADERS (9 Sep 2021, 09:31 AM) <https://blog.ipleaders.in/introduction-overview-juvenile-justice-care-protection-act-2015/>
31. The Juvenile Justice (Care and Protection of Children) Act, 2015,  27, No. 2, Acts of Parliament, 2015 (India).
32. (2000) 5 SCC 488
33. (2019) 14 SCC 401