

Comparative study between different Juvenile Justice Systems as compared to Indian

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ABSTRACT: Contemporary World has observed an increase in the rate of juvenile crime, which is an extremely serious issue, particularly in India, as these juveniles are their respective countries' future. Children who are not given proper guidance and who are in not a good influence are turning towards the criminal direction to lead their lives. Different factors are responsible for this juvenile approach. This work explores all aspects of Juvenile Delinquency in Major Countries and steps taken by these countries to tackle offenses committed by juveniles and further compare their laws for dealing with juveniles in India. This research paper also aims at studying the major differences between the Juvenile Justice Act, 2000 and Juvenile Act, 2015 which is recently passed Act relating to Juvenile in the Parliament. The goal of the research is to get the best way to deal with juveniles by comparative study among the major countries.

KEYWORDS: Delinquency, Juvenile, Offences, Comparative, Crime.

INTRODUCTION

The presence of minors or juveniles in criminal acts is known as juvenile delinquency. Unique protocols for dealing with juvenile justice, detention homes, etc, have been introduced by different legal systems around the world. Juvenile delinquent is a person who is under the age of 18 in India who has committed actions that are forbidden under the Indian Penal Code 1860 and if they were adults, would otherwise have been charged with the offence. Individuals under the age of 18 can be tried as adults, focusing on the seriousness of the offence and the state of mind of the juvenile when committing the act.

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Before the creation of juvenile courts, kids under the age of seven were never held responsible for criminal acts. By law, they had all been deemed incapable of creating the necessary criminal intent. It was commonly believed that children between the ages of 7 and 14 could not commit a criminal act, but this presumption could be disproved by showing that only the youth understood that the act was a crime or that it would affect anyone else and yet commit it. Children over the age of 14 can be convicted of a crime and handled in the same manner as an adult.

DISCUSSION

Juvenile justice (care and protection) act, 2015

An individual under the age of 18 in India is considered to be a juvenile, but it is clearly specified in the Indian Penal Code, 1860, that before he reaches the age of 7, a child cannot be punished for any offence. India's Juvenile Justice Act deals with juvenile delinquency and was amended recently in 2015. The Criminal Justice Act went into effect on 15 January 2016. The act was the result of the Delhi gang rape case in 2012, also known as the 'Nirbhaya' gang rape case, which resulted in a great hue and cry among people lining the streets to protest against gang rape victims. In August 2014, in Lok Sabha, the Juvenile Justice Act 2015 was presented and justified on various grounds. The government reported that the 2000 Youth Justice Act faced implementation problems and bureaucratic delays in adoption, etc. Data from the National Crime Records Bureau indicates a rapid spike in juvenile crime. According to statistics, a total of 33,526 cases (under the IPC) against children under 18 years of age were registered in 2014, compared with a total of 28,51,563 cases registered in the country during that year.

The Juvenile Justice Act, 2000 set down provisions to deal with children in conflict with the law and children in need of treatment and protection. The new Juvenile Justice Act, 2015 also provides guidelines dealing with all classes of children. It recommends that two key bodies for dealing with these children be formed in each district: the Juvenile Justice Boards (JJBs) and the Child Welfare Committee (CWCs). The new act also allows children between all the ages of 16 and 18 to be tried as adults for horrific crimes.

Under the 2000 Act, any child in conflict with the law may spend a maximum of three years in special education, regardless of the level of offence committed (special home, etc.). The child will not be charged or tried as an adult for more than three years and sent to an adult jail, while the Act of 2015 treats all children under the age of 18 similarly, with the exception of one departure. It states that any 16-18-year-old who commits a horrendous crime may be identified as a criminal. The JJB must assess the child's emotional and physical capacity, the maturity to consider the consequences of the crime, etc.

The new act acknowledges the need for children's care and safety. If a baby is found to be orphaned, abandoned, or surrendered, he will now be brought to a Child Welfare Committee within 24 hours. For the child, a social assessment report is carried out and the Committee decides to either send the child to something like the child's home or to some other facility it deems suitable, or to make the kids free for admission or care. The act outlines the entry requirements for prospective parents. The new act allows JJBs to include psychologists and sociologists to decide if, in the 16-18 age range, a juvenile criminal should be charged as an adult. Many provisions of the 1993 Hague Convention on the Security of Children and Cooperation in Respect of Inter-Country Adoption were also adopted by the Act, which were removed from the previous act. The act has been widely criticised for enforcing the 'Judicial Waiver Scheme' which allows minors under certain circumstances to be prosecuted and punished as adults.

Comparative study of juvenile delinquency across the world

Child and youth legislation in New Zealand has not distinguished between delinquent and vulnerable children for a long time. Therefore, New Zealand did not have any legal provisions that applied only to young offenders from before Children, Young People and their Families Act (CYPFA) was passed in 1989. Today, this Act is New Zealand's key legislation on juvenile justice, regulating, along with many other things, charges just before Youth Court against young offenders and providing numerous legal ramifications for dealing with young people who have behaved against all the law. In terms of evaluating the legislation concerning children and young people with a need for care or protection or acting against the law, the CYPFA was introduced. The new law therefore sets certain concrete targets and brings into statutory form a detailed set of general internal control includes both state involvement in the lives of children and young people and the management of the youth justice system. The purposes of the Act are to improve the well-being of children, young people, their families and extended families by improving public services and mechanisms

The Crimes Act 1961 establishes the criminal liability age brackets. Under section 21(1) of the Crimes Act, the age of criminal responsibility is 10 years, which ensures that no individual under the age of 10 may be convicted of an offence. This does not, however, affect the liability of any other individual claimed to have become a party to the offence.

The relevant date to determine the age of the young offender is indeed the date on which the crime in problem seems to have been committed. A child offender is a person who was 10, 11, 12 or 13 years old when he or she committed the offence. However, a child between the ages of 10 and 14 cannot be tried for any offence besides maybe murder or manslaughter under the Crimes Act 1961 and the CYPFA and cannot be accused of murder or manslaughter unless he or she understood either that the loss or damage was ethically wrong or that it was counterproductive to the rule. This is the duty of the prosecution to demonstrate that the offender understood that the act or active engagement was unlawful or contrary to the law. Before the Court of Justice, the preliminary hearing including its complaint shall be held. In such cases, the CYPFA rules apply, with some exceptions, as if all the child were a young person.

Diversionsary mechanisms at various levels are a central element of the youth justice system in New Zealand. The new CYPFA framework supports trial and detention relief and, while holding young people accountable, facilitates the advancement of strategies to rehabilitate and reintegrate young people, support their families, and take the needs of the patients into account. Compliance officers are able to deal with minor and first-time criminal crimes, while the Juvenile Court must take on a more severe or recurring felony before a judge. Data shows that about 44 percent of young New Zealand offenders are dealt with by police alerts (either front

line or Youth Aid police officers), about 32 percent by Youth Aid diversion police, about 8 percent by direct application to a Family Group Conference (FGC), and about 16 percent by youth court charges and a FGC..1

As a result of the historical evolution of German youth legislation, there is now a strict distinction across Germany between laws dealing, upon its one hand, with juvenile offenders and, just from the other, with children and young people in need of care and security. Therefore, the German Juvenile Justice Act (JJA) in Germany only deals with young offenders.

The legal basis of that same juvenile justice system is the JJA of 4 August 1953, as amended on 11 December 1974 and updated in part in 1990. The JJA is not even a special rule of criminal law for juvenile crimes, analogous to the laws of New Zealand involving juvenile offenders. Instead, the other act clearly describes criminal offences (whether committed by minors or adults), while the JJA includes clear procedural elements including its substantive law and the jurisdiction. 2

The German youth justice system is, in fact, a transformed type of adult criminal justice. There is just no special decision-making venue for (such as JJBs). The normal place of decision-making in Germany, therefore, is the tribunal where prosecutors and judges can decide the appropriate response to the offending actions. The national extension of the implementation of diversionary statutes is focused on the premise that diversionary solutions to juvenile crimes prevent or mitigate stigma in appreciation of the concepts of the diversion model because the young offender does not get into the full criminal system and is handled annually 'educationally'. 3

Since America has been dominated by England for many years, the Common Law of England strongly affects American laws. In the United States, the slogan "adult crime time" is being introduced. In 38 U.S. states, the highest age of teenagers is seventeen years, while in three other states it is fifteen years.

There is unanimity in prosecuting juveniles on a par with adults on juveniles who reach 14 years of age in some cases in almost all U.S. states, namely states such as Vermont, Indiana, and South Dakota where it will be possible to pursue even ten years of age as adults. And as far as punishment aspect is concerned, there are different types of penalties offered to juveniles. In heinous offences, even life imprisonment can be granted to children under twelve years, who are considered the highest penalty. Juveniles who also have the capacity to prosecute violent crimes are detained in an affordable and clean atmosphere and made to engage in recovery programmes. This was all achieved in order to monitor young juveniles. In addition, strict penalties for narcotics and gang-related violence, rigorous treatment such as boot camps, and blended sentences have been instituted to correct them. With respect to the part of jurisdiction, if a child typically has 13 or 15 years to commit a serious and grim felony, the case is immediately referred to the adult court. Juvenile court discretion is immediately waived in such cases.4

Contrast between India, United Kingdom and United States of America

India

- In India the act provides following powers of Juvenile justice Board.
- Observation homes (Section 8). Set up for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under this Act.
- They are to be established by the State Govt.
- Special homes (Section9). To be established by the state Govt. to provide for the management of special homes, including the standards and various types of services to be provided by them which are necessary for re-socialization of a juvenile.
- Children's homes (Section 34) .The State Government may establish and maintain itself or in association with the voluntary organizations, children's homes (Section 34)

¹ <http://www.nolo.com/legal-encyclopedia/juvenile-court-sentencing-options-32225.html>

² Belgium N° 1 For Children's Access To Court, available at: <https://focusonbelgium.be/en/international/belgium-ndeg-1-childrens-access-court> (last visited on Jan 21, 2021)

³ Neal Hazel, "Cross-national comparison of youth justice", Youth Justice Board for England and Wales (2008).

⁴ The United Nation Convention on the Rights of the Child, 1989.

- The state Government may establish and maintain itself or in association with the voluntary organizations, children homes, in every district, for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.
- Shelter homes (Section 37) The State Government may recognize, reputed and capable voluntary organizations and provide them assistance to set up and administer as many shelter homes for juveniles or children as may be required.⁵
- Adoption (Section 41) Adoption shall be resorted to for the rehabilitation of the children who are orphan, abandoned or surrendered through such mechanism as may be prescribed.
- Foster care (Section 42) In foster care, the child may be placed in another family for a short or extended period of time, depending upon the circumstances where the child's own parent usually visit regularly and eventually after the rehabilitation, where the children may return to their own homes.

United States and United Kingdom

- There are a wide range of sentencing options for juveniles or young offenders.
- Incarcerating Juvenile Delinquents.
- After a child is held delinquent a JJ Court may order incarceration as a penalty. But this incarceration is different from those used in adult criminal justice system. Some common ways that the judges can order confinement for a juvenile who has been found delinquent:
 - Home confinement: The judge can order the minor to remain at home, with exceptions (attend school, work, counselling, and so on).
 - Placement with someone other than a parent or guardian: The judge can require that the minor live with a relative or in a group or.
 - Juvenile hall/juvenile detention facility: The judge can send the minor to a juvenile detention facility.
 - Counselling: Often, judges require juveniles to attend counselling as part of a disposition order.
 - Community service: Juveniles may be ordered to work a certain number of hours in service to the local community.
 - Electronic monitoring: Juveniles may be required to wear a wrist or ankle bracelet that verifies their location at all times.⁶

CONCLUSION

Every child has the right to a happy, exhilarated and rejoicing childhood, the right will grow up in an area that is fun and nurturing, the right to be free from life's intricacies and convolutions, etc. Even though there are some unfortunate and doomed children who are unaware of these things, growing up as unwanted children or otherwise calling them juvenile offenders. In order to deal with these young criminals, different regulations are made worldwide. The Juvenile Justice Act, 2015 in India is far from being a flawless law for protecting and maintaining the rights of children. The defects in the layer is responsible for providing were replicated in the zingier.

The Criminal Justice system is presently in limbo. Finally, the political representatives should fill the holes by drafting detailed rules in cooperation with children's rights experts and non-governmental organisations. Under Section 70, within two years of the entry into force of the Act, the central government is authorised to remove any complexities that hinder its successful activity. Let's test the Juvenile Justice Act (Care and Children's Protection) and make the most out of every provision to streamline its effectiveness, keeping kids at the centre of the stage.

The 2015 Juvenile Justice Act (Care and Protection of Children) provides the main legislation for the adjudication and prosecution of children in conflict with the law, not just for the care and protection of children. In its scope, the criminal justice system is limited to delinquent children and those who need treatment and safety. The phrase youth justice encompasses all facets of the complex system affecting the treatment of children and young people who are immature.

⁵ Rajya Sabha passes Juvenile Justice Bill; Jyoti's parents welcome development. The Indian Express.

⁶ SC agrees to examine plea to base juvenile culpability on mental age. The Times of India.