

Comparative Analysis of Juvenile Justice Systems in India and Other Countries

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Abstract

Juvenile justice systems play a crucial role in safeguarding the rights and welfare of the juvenile offenders. They also assist with their recovery and return to society. This research offers an in-depth comparison of the juvenile justice systems in India and specific countries such as the United States and the United Kingdom. It examines the legal structures, procedural safeguards, detention practices and rehabilitation efforts in every location. The primary framework for India's juvenile justice system is the Juvenile Justice (Care and Protection of Children) Act, 2015. This legislation emphasizes rehabilitation and social reintegration, embodying a child-focused perspective rooted in constitutional principles of rights and dignity. Conversely, the remaining nations possess varying frameworks. The U.S. integrates juvenile courts and detention facilities, emphasizing personal treatment. The UK emphasizes interventions focused on the community and principles of restorative justice. The research highlights the significance of implementing best practices from various jurisdictions to enhance and improve juvenile justice in India. It requires a balanced strategy that combines robust legal safeguards with rehabilitative methods. This will establish a justice system that respects the rights of young individuals while promoting their growth and reintegration into society. This comparative study seeks to enhance ongoing policy debates and reforms, emphasizing the necessity for a child-focused, compassionate and efficient global juvenile justice system.

Keywords: Juvenile Justice System, Juvenile Delinquency, Rehabilitative Methods, Social Reintegration.

1. Introduction

“There is no better way to illustrate the true nature of a society than by the way it treats its children” said - Nelson Mandela.

It is essential to acknowledge the rights of children within society. In that regard, there is a need for an exemplar change through a ‘need-based approach’ towards a ‘right-based approach’. The Latin proverb that best describes India's juvenile^[1] justice system would be ‘Nil Novi Spectrum’ this suggests that

¹ ANALYZING THE LEGAL FRAMEWORK AND THE IMPACT OF “THE JUVENILE JUSTICE SYSTEM” IN INDIA. <https://jlrjs.com/wp-content/uploads/2024/06/37.-Ruchita-Ramisetty.pdf>

there is nothing new on Earth. In this regard, it had been presumed across the world from ancient times that juveniles have to be handled leniently due to a belief system that holds that young people are inherently inclined to react with severe, protracted frustration that is accompanied by aggressive behaviours. ‘The fact that children between the ages of six and ten are being used for illegal activities is quite shameful. Children are readily manipulated for very little money since their minds are so naive and easily controlled’. The main aim^[1] of the juvenile justice system is to protect^[2] all children, including those facing legal problems and to incorporate them into the system. However, the phrases ‘in conflict with the law’ and delinquency are frequently used interchangeably or together. There has consistently been ‘a clash between the safeguarding method of the juvenile justice system and the traditional method of the criminal justice system leading to significant challenges for justice system’.

According to National Crime Record Bureau, ‘4,294 juveniles were arrested in the year 2022 and 3,970 cases of juvenile delinquency accounted for roughly 12% of total juvenile offences recorded across India in 2023 in Maharashtra. 427 offences^[3] involving juveniles were recorded in Bangalore during the year 2023 with a 13% rise from 200 cases registered in 2022 and Chennai with 523 cases in 2023. As per National Crime Record Bureau, the count of juveniles^[4] in conflict with the law refers to the number of offences perpetrated by children under the age of 18 years’^[5].

‘Not far behind was Madhya Pradesh, representing the overall of 16.6% crimes. Notably, in 2017, Madhya Pradesh^[6] recorded the largest number of these crimes. In Madhya Pradesh, 3,619 cases were registered against juveniles. Bengaluru witnessed a significant surge in juvenile crimes, ranking second among Indian metropolitan cities. It reported 427 offences involving juveniles’.

Delhi, on the other hand, recorded 2,278 juvenile-related criminal cases in 2023 which showed a slight decrease from 2,340 cases reported in 2022. Of the crimes involving juveniles, 92% pertained to Bharatiya Nyaya Sanhita offences. ‘The largest share of cases, covering both Indian Penal Code and Special Local Laws, were connected to offences against the human body^[7] (37.7%). This category encompassed injury and severe injury (47%), sexual assault (13%), attacks on women to violate their dignity (12%), along with various others. Property-related offences accounted for 37% of all crimes committed by juveniles. Among these, theft accounted for 70% of property crimes, with burglary at 16.8% and robbery at 10%. Cases registered under the POCSO Act, 2012 made up 45.4% of cases under SLL’.

¹ <http://hdl.handle.net/10603/145628>

² Chauhan A., Shukla V., Ankesh A., Sharma M. (2022) Juvenile delinquency in India: Causes and prevention. <https://doi.org/10.53730/ijhs.v6nS4.9343>

³ Editor(s): Marvin D. Krohn, Jodi Lane - The Handbook of Juvenile Delinquency and Juvenile Justice. <https://onlinelibrary.wiley.com/doi/book/10.1002/9781118513217>

⁴ The Law Related To Juvenile Justice System In India: A Critical Analysis by Arafat Khan. <https://www.legalserviceindia.com/legal/legal/legal/article-9482-the-law-related-to-juvenile-justice-system-in-india-a-critical-analysis.html>

⁵ <https://factly.in/more-than-99-of-the-juveniles-apprehended-for-crimes-are-boys/>

⁶ The Law Related To Juvenile Justice System In India: A Critical Analysis by Arafat Khan. <https://www.legalserviceindia.com/legal/legal/legal/article-9482-the-law-related-to-juvenile-justice-system-in-india-a-critical-analysis.html>

⁷ *ibid*

‘Madhya Pradesh was ranked second for juvenile crime in 2022, as per NCRB report. In 2022, juveniles committed around 3795 criminal cases. Maharashtra topped the list with 4406 criminal cases, according to the latest NCRB report, although it is the second state with the highest crime records by juveniles, there was a substantial decrease of 33% if compared to 2021, when the juveniles committed 5684 crimes’. However, recently they were involved in all kinds of criminal offences and sexual offences. 4294 juveniles were arrested in 2022, according to NCRB report. 150 juveniles were given imprisonment during this year.

However, the perspective towards delinquents had shifted. Rather than seeing them as inherently bad, they are now regarded as either suffering from mental illness or as victims of their surrounding circumstances^[1]. In modern society, ‘psychologists have started to draw the civilized world’s attention to the root causes of youth crime, advocating for rehabilitating^[2] children in place of premature punishment’. Nowadays, nations across the globe strive to reform juvenile offenders rather than punish them.

Abraham Lincoln^[3] stated, ‘A child is a person who is going to carry on what you have started. He’s going to sit where you’re sitting and when you’re gone, he’ll attend to those effects which you suppose are important. You may borrow all the programs you please, but how they’re carried out depends on him. The fate of humanity lies in his hands’. The problem^[4] of youth crime has been persistent and is present in every society and country. When social connections deteriorate, culminating in intense disputes within groups, juvenile delinquency tends to emerge. When families are ‘fractured, economic insecurity, physical or sexual violence, seclusion within the household, unstable households, insufficient educational systems, poor environmental conditions, racial discrimination and various other factors aid in the rise of youth crime’.

Indeed ‘UN Standard Minimum Rules for the Administration of Juvenile Justice also known as Beijing Rules, 1985 and UN Convention on the Rights of Child, 1989 are grounded on global agreement and it has expressed that special attention should be drawn towards the children who are in conflict with law’.

India had endorsed the UN Declaration, which recognizes and grants several rights to children as their fundamental rights including ‘the right to health and medical services, the right to safeguard against neglect, the right to express themselves, the right to nutrition, the right to be protected them from various abuses and the right to protection from exploitation’. To realize these fundamental rights for children, ‘a national policy on children was implemented by India in 1974. This policy offered three layers of Constitutional safeguards for children prior to birth and during their growth to complete development. The Government of India has adequate procedures for monitoring to evaluate the National and State laws and aligned them appropriately’^[5]. As a participant in the global declaration concerning the safety, survival, growth of children 1990 and also to honour the commitment internationally, ‘Ministry of Human Resource Development devised a public action plan for children, considering the essential

¹ JUVENILE DELINQUENCY: A SOCIO LEGAL STUDY. <https://www.jetir.org/papers/JETIR2506317.pdf>

² JUVENILE DELINQUENCY: A SOCIO LEGAL STUDY. <https://www.jetir.org/papers/JETIR2506317.pdf>

³ <https://supremoamicus.org/wp-content/uploads/2019/11/Volume-14.pdf>

⁴ Chauhan A., Shukla V., Ankesh A., Sharma M. (2022) Juvenile delinquency in India: Causes and prevention. <https://doi.org/10.53730/ijhs.v6nS4.9343>

⁵ <http://hdl.handle.net/10603/145628>

facilities, rights and objectives of about 440 million children in the country. Around 50% of children do not go to school sincerely. Now a days things in India are changing, their problems and difficulties are being given heed and discussed at different levels. However, ensuring better protection and care for them poses a significant challenge in India. The primary cause of delinquent behaviour in children is socio-economic conditions'. As per the "UNICEF report of 'Child under Threat' 2005, children are an invaluable national resource^[1] and humanity's greatest blessing"^[2].

Children are precious assets of every country so there arose a need to give proper attention and care to every child in a society. 'The significance of a child can be assessed and valued based on what Winston Churchill expressed regarding children, that there is no finer investment for any community than putting milk into babies'. 'That appeal of concern to the people everywhere is the fundamental faith in juvenile justice system. Reorganization of merit of child born and unborn, is the beginning of juvenile justice', as per Justice^[3] V.R. Krishna Iyer. 'Child is the father of a man and for fathering of a pulsating man, the child needs to be nurtured well. A child must have education, knowledge of world and groomed in an atmosphere where on future age, he would become a man with mission'^[4]. As per the 'Children's National Policy, they are supreme assets of the nation and their childhood is a worldwide human practice and has fundamental stakes.

The upcoming growth and stability of a society depends upon the quality of its children. Welfare of the children is the ultimate importance to mankind. Now, Child is taken into consideration as an important social entity and is entitled to enjoy healthy living, adequate recreation, schooling suited to his natural mode of living and has the right to develop their abilities'.^[5]

1.1 Who Is a Juvenile

As per 'The Juvenile Justice (Care and Protection of Children) Act, 2015', 'a juvenile as defined in Section 2(35) refers to a child who is younger than 18 years old. That is to say, a child who has not completed a specific age at which he should be regarded as an adult according to the legal system and cannot be held justly responsible for his crime'. A juvenile is 'a minor who has been reported to have violated a law of the land that considers the child's action or inaction a crime. In legal^[6] contexts, juvenile and minor are employed in various situations. Juvenile refers to young criminal offenders while minor signifies legal capacity or majority'.

¹ Laxmi Kant Pandey vs. Union of India 1984 (2) SCC 244

² Bandhua Mukti Morcha vs. Union of India, AIR 1984 SC 802

³ V.R. Krishna Iyer- 'Jurisprudence of Juvenile Justice: A Preambular Perspective', quoted in article 'Rights of Child and Child Labour: A Critical Study' by Srinivas Gupta

⁴ M.C. Mehta vs. State of Tamil Nadu & Others (1996) 6 SCC 756. <https://mqpace.weebly.com/child-labour-case-notes.html>

⁵ Edwin R.A. Seligman, 'The Encyclopaedia of Social Sciences' Volume III, published by Macmillan Company 1951, page 380

⁶ The Law Related To Juvenile Justice System In India: A Critical Analysis by Arafat Khan.

<https://www.legalserviceindia.com/legal/legal/legal/article-9482-the-law-related-to-juvenile-justice-system-in-india-a-critical-analysis.html>

1.2 What Is Juvenile Delinquency

Delinquency signifies a departure from typical behaviour in a child or the irregular actions of a child. It refers^[1] to not adhering to social norms or neglecting obligations, which may encompass criminal acts and wrongful behaviour. In other words, it typically denotes an individual who exhibits unlawful conduct and has strayed from the path of typical social existence. ‘A minor below an age set by various criteria who exhibits unlawful and harmful behaviour that could negatively affect society may be called a juvenile delinquent. Juvenile delinquents are persons involved in criminal acts who are under the age of 18.

A juvenile offender is a person who is rebellious and disobedient. Juvenile Delinquency describes instances where young individuals partake in actions that contradict social norms’. Juvenile Justice involves ensuring ‘fair, just and equitable treatment for adolescents and young people to support their growth within the community’.

The main aim^[2] is to safeguard children by providing^[3] them with appropriate care and fostering an environment that enhances positive human growth. ‘It is a socio-legal method to create circumstances for rehabilitating juvenile offenders. The main goal of the Juvenile Justice System is to highlight rehabilitation over punishment. When a youth or minor commits an offence or participates in wrongdoing, the Juvenile Court arranges to provide support and empathetic care in dedicated centres, enabling young people to find a way to a dignified life’.^[4]

An act of wrongdoing may involve:

1. Leaving home without the parent’s consent
2. Chronic misconduct outside of regulation
3. Use of inappropriate language
4. Roaming aimlessly and Betting
5. Engaging in sexual offences
6. Theft/ Pickpocketing
7. Larceny/robbing etc.

A juvenile may engage in criminal activities either individually or as part of a gang. A number of additional situations contribute to them being a delinquent. A few of the conditions are as such-

i. Skipping school and discontent - Certain youths or students are not unhappy with their school experience. Insufficient sports facilities in schools, teacher discrimination against students, neglectful parenting towards them and an unmanageable teacher-student ratio are some instances. Disappointed students often skip school and frequently miss classes, leading them to roam aimlessly and become pickpockets, smokers, drug users, gamblers and harassers.

¹ Juvenile Justice System in India by Aishwarya Agrawal. <https://lawbhoomi.com/juvenile-justice-system-in-india/>

² JUVENILE JUSTICE SYSTEM: A SOCIO- LEGAL CRITIQUE BY- NITIN RAJ.

<https://www.whiteblacklegal.co.in/details/juvenile-justice-system-a-socio--legal-critique-by--nitin-raj>

³ <https://ijirl.com/wp-content/uploads/2024/05/NAVIGATING-JUVENILE-JUSTICE-A-CROSS-COUNTRY-COMPARATIVE-ANALYSIS-OF-YOUTH-LEGAL-SYSTEM.pdf>

⁴ ibid

ii. Film and adult literature - Movies, television and explicit literature typically stimulate sexual and various instincts in adolescents. Thus, they perpetrate offences while satisfying their cravings.

iii. Inward longing, stress and allure - Young individuals are enticed and attempt to replicate the illicit sexual encounters or other criminal activities they hear about from others. 'According to the psycho analytical perspective, offender is a person who is governed by the pleasure principle. They want to get immediate pleasure and satisfaction for his needs in short term. Thereby becomes the victim to their own impulses. Environmental factor also leads to delinquency'.

1.3 Legislative Developments

The global Juvenile Justice System operates on the premise that children are not fully matured and do not possess the same maturity as adults^[1]. This is backed by the 'legal principle of Doli Incapax, which asserts that children lack the ability to form criminal intentions. In India, the initial juvenile justice law was enacted in 1850 with the 'Apprentice Act', which included vocational training as a component of the rehabilitation process for children convicted by the court and aged 10 to 18 years. Nonetheless, this legislation was subsequently succeeded by 'Reformatory Schools Act of 1897' and later by 'The Children Act of 1960'. The primary legal structure for juvenile justice in India was The Juvenile Justice Act, 1986, which experienced restricted enforcement nationwide'. This Act created a comprehensive approach 'to prevent and tackle juvenile delinquency while providing explicit guidelines for the protection and rehabilitation of youth in the juvenile justice system'^[2]. The new law subsequently took the place of the 'Children Act of 1960'. Then, in 1986, Parliament enacted the 'first central law, establishing a uniform system for juvenile justice throughout the whole country. Before an enactment of the Act, each State had its own Acts on juvenile law so that each State used to treat juveniles in a different manner'. But no concrete outcome was achieved from the first uniform law and there was no progress in the care of young offenders.

The Act also established specific reforms for young offenders who were accommodated in special reformatory institutions or juvenile facilities. The worldwide focus on juvenile justice^[3] emerged in the late 1990s, subsequently elevating the issue to prominence with numerous discussions occurring at both national and regional levels. 'The growing concern regarding the sensitive matter of juvenile justice and the request for the federal government to deliver a report to the 'Committee on the Rights of the Child' have prompted the Ministry for Social Justice and Empowerment to develop a new law on Juvenile Justice, resulting in the creation of The Juvenile Justice (Care and Protection of Children) Act, 2000'^[4].

'The Government of India initiated the repeal of the 'Juvenile Justice Act 1986' and enacted the 'Juvenile Justice (Care and Protection of Children) Act in 2000', later amending the 2000 Act in 2006 to address the growing demands within the juvenile justice system, better aligning it with the principles of the UNCRC. The objective^[5] of The 'Juvenile Justice Act, 2000' is to amend the laws concerning

¹ Juvenile Justice System in India by Aishwarya Agrawal. <https://lawbhoomi.com/juvenile-justice-system-in-india/>

² https://shodhganga.inflibnet.ac.in/bitstream/10603/145628/5/05_chapter1.pdf

³ <https://epdf.tips/juvenile-justice-systems-international-perspectives.html>

⁴ <http://hdl.handle.net/10603/145628>

⁵ Juvenile Justice In India; An Analysis Of Concept, Causes And Current Legislation. <https://ijrar.org/papers/IJRAR23B3509.pdf>

juveniles facing legal issues and children requiring special attention, ensuring their developmental requirements are addressed by adopting a child-centred method in the processing and resolution of cases, focusing on children's best interests and enhancing their rehabilitation through various institutional structures'.

With the intention to reach every child of the nation, it required a greater involvement in the communities and assistance at the grassroots level from all the authorities working at different levels. A very important role is played by the commission for executing programs and policies for children by the States and local entities at the community tier and also work for the wider societal concern for juveniles and their well-being. On July 28, significant changes were implemented to the current 'Juvenile Justice Act of 2015'.

'The Juvenile Justice Care and Protection of Children amendment Bill, 2021' received approval from both the Rajya Sabha and Lok Sabha^[1] in the budget session of 2021, garnering backing from the ruling party as well as the opposition^[2].

1.4 Concept of Juvenile Justice System

'The idea of the juvenile justice system originated from the understanding that issues related to juvenile delinquency and youth in a typical circumstances cannot be addressed within the traditional criminal law processes. The Juvenile Justice System is established to point out the needs of youth who have been found guilty of an offence' and to support their rehabilitation through reforms. The primary goal of the 'Juvenile Justice System is to provide a preventive treatment services for children and young persons and then secondly rehabilitation and improved socialization^[3]. At the Seventh United Nations Congress on crime prevention and offender treatment, three approaches to juvenile justice were acknowledged: the due process model, the welfare or parental involvement model and the participatory model'.

The Juvenile Justice System^[4] is one of the government's initiatives aimed at fulfilling the Indian Constitution's goals regarding the welfare and safeguarding of children. 'The Constitution provides children with special recognition under Articles 15(3), 21A, 24, 39(e) and (f) and 45. The administration of offenders is recognized by three models of the juvenile justice system that are based on present techniques for dealing with juvenile delinquents –

- (a) The requisite procedural framework
- (b) The model of social welfare^[5]
- (c) The model of participatory processes'

The method of the 'initial model is based on^[1] the notion of legitimacy, part of the law and due process, the experienced and professional advocates taking the main conclusions'. The method of 'second model

¹ <https://www.ijrar.org/papers/IJRAR24B1595.pdf>

² Juvenile Justice System in India by Aishwarya Agrawal. <https://lawbhoomi.com/juvenile-justice-system-in-india/>

³ Juvenile Justice: Before and After the Onset of Delinquency, working paper prepared by the Secretariat, Sixth UN Congress on the Prevention of Crime and Treatment of Offenders, Caracas, Venezuela, p.6 (25 August to 5 September 1980).

<https://pdfcoffee.com/juvenile-justice-system-meetali-kumar-pdf-free.html>

⁴ <https://1library.net/document/ynlmr1kq-juvenile-justice-system-in-india.html>

⁵ https://shodhganga.inflibnet.ac.in/bitstream/10603/145628/5/05_chapter1.pdf

is based on the conception of profitable and social justice through State planning with administrators and professional from the helping services, taking the main decision’.

The ‘initial two models are crucial for the appropriate growth and safeguarding of the young individuals. The method of the third and final model addresses the issue since juvenile justice can be more effectively managed internationally, with greater involvement from the public in addressing inconsistencies locally and minimal interference from the centralized power structure of contemporary nations’.

The ‘third and final model continues to exist in pre-industrialized countries and is also functioning in developing nations. Currently, it’s rare to find a nation worldwide where the juvenile justice system strictly adheres to any one of the three mentioned models. The equilibrium among the three models has been attained according to the culture and progress level of a nation’.

Thus, similar to other nations, India has also enacted legal measures that specifically cater to the rights and safeguarding of young offenders, with the goal of tackling the challenges of juvenile delinquency. ‘The Juvenile Justice System in India relies on three^[2] fundamental assumptions:

1. They ought ‘not to face punishment from the courts, but should rather have an opportunity to reform and reintegrate into society’.
2. ‘The trail for a child in conflict with law^[3] should focus on non-punitive measures through community-based social control agencies such as observation homes^[4] and special homes^[5]’.
3. Juvenile delinquents should not face trial in courts instead they ought to be rehabilitated in every optimal manner.’

1.5 Methodology

The present study has examined all available ‘literature in the format of reports, decisions, books, research articles and others’. An effort has been undertaken to investigate the subject presented for analysis. More emphasis has been put on the judgments and legal precedents set by the High Courts^[6] of different States and the Supreme Court of India.

In conclusion, a ‘Doctrinal method’ has been applied. Consequently, every aspect of the Juvenile Justice System in India and its Legislative Judicial Processes has been thoroughly analysed.^[7]

1.6 Significance of Research

In India, youth crime poses a significant problem similarly to that observed globally. The reality is that “if today’s troubled child is not properly managed then tomorrow he could become a serious criminal.”

¹ <https://ijrar.org/papers/IJRAR23B3509.pdf>

² <https://lawbhoomi.com/juvenile-justice-system-in-india/>

³ Section 2(13) of The Juvenile Justice (Care and Protection of Children) Act, 2015

⁴ Section 40 of The Juvenile Justice (Care and Protection of Children) Act, 2015

⁵ Section 56 of The Juvenile Justice (Care and Protection of Children) Act, 2015

⁶ ROLE OF JUVENILE JUSTICE SYSTEM & JUVENILE DELINQUENCY: KEEPING IN MIND WITH THE CONTEXT OF INDIA by Aakash Kumar Payal. <https://lasenatusscriptorsdotcom.wordpress.com/wp-content/uploads/2022/05/r1-aakash-1.pdf>

⁷ <https://lasenatusscriptorsdotcom.wordpress.com/wp-content/uploads/2022/05/r1-aakash-1.pdf>

Delinquent behaviour or criminal activities in children^[1] can be managed before they pose a significant threat to society and the nation. The information and reports supplied by different authorities and agencies intermittently indicate an increasing trend in juvenile crime incidents. A comprehensive analysis is necessary, focusing on various factors and reasons for delinquent behaviour and addressing the issues faced by the troubled youth.

In India, ‘various laws have been enacted by the parliament at different times to achieve the goals to a significant degree, but much remains to be done to realize the juvenile justice system in India. To achieve this, various questions emerge within this system-

- Can the authorities effectively enforce the laws that benefit juvenile delinquents?
- Do the current laws adequately address the issues of juvenile delinquency in India?
- Is society accountable for the creation of juvenile delinquents in India?
- Are the reformatory approaches and rehabilitation facilities established by the Government of India adequate to change the criminal mindset of juvenile offenders in India?’^[2]

The various concerns that have arisen in our minds over time have been thoroughly analysed in light of judicial rulings and legal statutes.

The primary goals of this research are:

- a. To examine the ‘various regulations concerning juvenile delinquency’^[3].
- b. To examine the significance of the Juvenile Justice System^[4].
- c. To examine the ‘various crimes committed by juvenile delinquents’.
- d. To grasp the care and safeguarding required for juvenile delinquency.
- e. To discuss the solutions for juvenile offenders.

1.7 Conclusion

The chapter serves as the preface or introduction to the research. ‘This chapter has clarified the concept and highlighted the issue. The idea of the juvenile justice system is elaborated upon with reference to case laws from the High Courts and Supreme Court’.

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² *ibid*

³ <https://www.granthaalayahpublication.org/Arts-Journal/ShodhKosh/article/view/5680>

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