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**JUVENILE JUSTICE SYSTEM IN INDIA: THE CONTEMPLATION TO  
DECIDE THE LIABILITY AND REPERCUSSIONS OF THE CRIME  
ACCORDING TO THE AGE**- Harshika Bhutda<sup>1</sup>**LITERARY SOURCE**

“The juvenile justice system in India: From welfare to rights by Ved Kumari”

**ABSTRACT**

History must be consulted to comprehend the current situation of the system of “juvenile justice in India.” In India, the JJS got its start under British control. Juveniles in India were handled by their families and society at large before British rule. There were no apparent witnesses to juveniles' treatment in institutions. Therefore, JJS and the establishment of corrective measures were a direct result of Western thinking and the creation of jail reforms. As old as the community itself is, the culture of juvenile offenders committing crimes. The youthful generation frequently runs afoul of the law and commits crimes due to their doli in Capex and impulsive nature. It has been proven in the past that kids have been imprisoned without being given a chance to defend themselves. They were detained among other inmates' ruthless criminals. Penologists in the 19th century recommended the same penalty for adults and juveniles. Children were executed, transported, and confined like adult criminals, according to history. Records show that a nine-year-old child was given the death penalty in 1833 for stealing goods valued at two pence. For minor offences, hanging, lashing, and pillory torture were often used as punishments. As a kind of deterrent, the penalties were frequently administered in front of the public.

The issue of juvenile offenders received special attention over time. Some eminent criminologists have advocated using corrective methods rather than punitive ones. In 1947,

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<sup>1</sup>Student at Symbiosis Law School, Hyderabad

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India attained freedom. It joins the UDHR 1948 as a signatory. India, a member of the UN, has implemented policies according to the global norm. Children and women had different treatment under India's constitution. To build a robust JJS in India, the assumption that is reflected in the social sphere is being made. This research paper attempts to assess India's specific handling of juveniles in light of international conventions and its constitutional ideology.

### **KEYWORD**

Delinquency, Juvenile Justice System, Juvenile Justice Act, Juvenile Justice Board

### **INTRODUCTION**

### **ABOUT THE AUTHOR**

The previous Dean and Head of the University of Delhi Law Faculty are Professor Ved Kumari. In addition to supervising LL.M. theses and Ph.D. She started teaching law. She has taught “graduate and undergraduate courses at the University of Delhi, Jammu University in India, and Vanderbilt University (USA).” She has authored numerous books and articles for publications domestically and abroad. The main academic interests of Professor Ved Kumari are clinical education, judicial training, gender discrimination, juvenile justice, and criminal law. She actively incorporates Curative Justice through various teaching workshops for jurisdictional officers and communal activists. She has led and partaken in numerous national and international train-the-trainer training courses on various topics, including teaching techniques, evaluation, teaching ethics, mainstreaming gender, etc. From 2009 to 2011, Prof. Ved Kumari served as the Delhi Judicial Academy's Chair. She has this esteemed status as the first and possibly the first scholarly woman. Throughout her tenure, she introduced several significant modifications to the instruction and training of judges. To train judicial officials in the art of teaching, she organised two Training of Teachers Seminars. She introduced participation learning through a variety of cutting-edge participatory teaching approaches. Prof. Ved Kumari has made the most significant contribution to Indian juvenile justice. During her LL.M. course in 1978, Prof. Lotika Sarkar introduced her to juvenile delinquency. She wrote the first experiential paper by a law student under the de facto supervision of “Prof. Upendra Baxi” in 1980 on the topic of "Rehabilitation Process in Juvenile Correctional Institutions in Delhi." Under Prof. Baxi's guidance, she completed a PhD on the "Juvenile Justice System in India" topic. Social activists who work with children

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have referred to her first book, “Treatise on the Juvenile Justice Act 1986,” published by the “Indian Law Institute in 1993,” as the “Bible in the field of juvenile justice.” The legal and social work communities have praised her later writings, including “Child Advocacy International Perspectives (2004)” and “Juvenile Justice System: From Welfare to Rights (2004 and 2010)”. She recently published a book titled “Critical Analyses of Juvenile Justice Act 2015” which discusses the topic.

### **ABOUT THE BOOK**

The book examines the sociolegal and human rights aspects of India's juvenile justice system. The book describes the juvenile Justice System in India and undertakes a macro-level assessment of these challenges from a multidimensional perspective by addressing the subject from a wide range of viewpoints, including sociological, demographic, legislative, judicial, and interventionist. The paper describes the nature, purpose, and organization of JJS, evaluates its development in India, and highlights the roadblocks to it. The author combines different threads of debatable and varied topics where both substantive and procedural gaps relating to JJS are discussed, and remedies are provided. The System for Juvenile Justice in India offers a comparative assessment of provisions of earlier legislation to establish a comprehensive and interconnected juvenile justice system while taking into account the perspective and issues of the lawmakers as well as how the earlier ruling was implemented. The book gives us information on children, but it continues to stand out for its absence and to dilute the rights approach with welfare aspects. It provides us with an analysis of the judgments from the courts and highlights some defensive strategies. Still, more frequently than not, the decisions do not consider competent counsel and thorough investigation. The book also claims that the system as a whole is less successful since there is a lack of coordination among the many juvenile justice authorities. Many disputed problems have been clarified by the “Juvenile Justice (Care and Protection of Children) Act, 2000,” and the “Model Rules of 2006;” nevertheless, it has been noted that these changes will only be effective if they are put into practice by the courts and enforcement authorities.

### **ABOUT THE TITLE**

The title is chosen because children below 18 are subjected to different recriminations based on age, even if they commit the same crime. The act is still a punishable offence, but the

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liability is decided according to their age. “Juvenile Justice (Care and Protection) Act 2005” states that the extent of the weakness of the crime is agreed on the “age, understanding, and maturity of a child.” Due to the Indian penal code's blanket immunity for children under seven years old, only children between the ages of twelve and eighteen who are adequately mature enough to understand the consequences of their actions and those between the ages of seven and twelve can be tried under the Juvenile Justice Act.

## **RESEARCH METHODOLOGY**

This research is qualitative. It is done in a manner to obtain the data from theoretical as well as judicial data from the primary and secondary subtext. The primary source of data is collected from the book “The Juvenile Justice System in India: From Welfare to Rights by Ved Kumari”. The secondary source of data is collected from the articles, journals, and court judgments written on such topics. The acts and the bills passed by the Indian Constitution and the Parliament respectively comprise a major part of the research. Apart from this, the data cited by the authors and the judges, or a legal entity is considered to be a part of the research.

## **RESEARCH QUESTIONS**

The main objective of this review is to find

- How does children's age matter in their chastisement of the crime they committed?
- What is the status of the Juvenile justice system in India?
- Why is the juvenile justice system important as a system for reshaping the punishable minds?

## **LITERATURE REVIEW**

The literature text used in this paper is Acts, Articles, Books, Journals, and, Judgements

- **“Juvenile Justice (Care and Protection) Act 2015”**: The "Juvenile Justice (Care and Protection of Children) Act of 2015" was decreed by the “Indian Legislature” after the fiery debate, protests, and controversy about many of its provisions from the child rights community. It replaced the "Juvenile Justice (Care and Protection of Children) Act, of 2000," which dealt with juvenile delinquency in India. It permits those who

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are in trouble with the law and are between the ages of 16 and 18 when they commit atrocious crimes to be tried as grownups. " The Hindu Adoptions and Maintenance Act (1956)," which was relevant to "Hindus, Buddhists, Jains, and Sikhs," and the "Guardians and Wards Act (1890)," which was valid to Muslims, were both superseded by the Act, but not entirely replaced. The Act became effective on January 15, 2016.

- **“The Juvenile Justice Act 1986”**: "The Juvenile Justice Act of 1986" was the first national law addressing child protection and care. The juvenile's age was held at the level provided in "The Children Act of 1960" while maintaining the general structure and components of "The Children Act of 1960." The segmentation of minors into two broad groups—delinquent juveniles and neglected juveniles—was a novel aspect of this act. Both children were to be placed in "Observation Homes" while their questions were being answered.
- **“Child Advocacy International Perspectives (2004)”**:In this book, professionals who are actively assisting this at-risk group in their home nations share their successes and ongoing initiatives on behalf of children from around the world. The book is divided into four main sections, each of which provides strategies and illustrations in various socio-political circumstances. The book's first section discusses legal and alternative dispute settlement methods. The second section of the book provides an overview of legislative tactics and revolutionary movements in Kenya and the US, along with a look at a truly global issue—international parental child abduction—and how The Hague Convention is applied to custody disputes. The third section discusses community education and "street law" tactics. A section on integrated tactics for kid advocacy is included in the book's conclusion.
- **“The Role of the Juvenile Justice System in India”**: The article was written by Juscorpus. Since it is so new, the idea of juvenile delinquency is very divisive. Even though the government has established several laws to lessen juvenile crime. Current laws are insufficient, and as a result, they have not been able to effectively deter adolescent behaviour. There is nothing new on our globe, as the Latin expression "Nil Novi Spectrum" properly reflects India's juvenile system.
- **“Juvenile justice system in India: an appraisal”**:The issue of juvenile delinquency has existed for a long time. Through the ancient ages, it was present in communities. Instead, it has expanded into a global issue. Several international declarations and

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treaties have been made to address the problem of juvenile delinquency, and national legislation has been passed by the relevant governments. Traditional juvenile laws were found to be ineffective in stopping the rising number of juvenile offences as time and information technology progressed. The tragic example of the gang rape of Nirbhayain Delhi served as the impetus for new legislation that imposes severe penalties on juvenile offenders. The "Juvenile Justice (Care & Protection of Children) Act, 2014" was created as a result, and it includes standard criminal proceedings and criminal penalties. The journal article written by Renu Bala provides a brief analysis of Indian juvenile justice laws.

## **ANALYSIS**

The juvenile justice regime is examined in the book along with its historical history, legislative and judicial processes, and patterns of execution. It tries to pinpoint the precise barriers impeding the development of the juvenile justice system as a whole and offers solutions. The author combines different threads of debatable and varied topics where both substantive and procedural gaps relating to JJS are discussed, and remedies are provided. The book gives us information on children, but it continues to stand out for its absence and to dilute the rights approach with welfare aspects. It provides us with an analysis of the judgments from the courts and highlights some defensive strategies

The administration of justice for criminal cases includes a system known as juvenile justice. This system was implemented for children who are too young to be held responsible for committing crimes. It is used as a kind of juvenile delinquent punishment. Juvenile refers to an adolescent or just about any young person who still exhibits the traits and features of a child in its etymological sense. Delinquency is "failing to respect social norms or omitting duties, engaging in crime, or doing any wrong."

A juvenile is a person who is under the age of eighteen. "Justice" refers to a genuine concern for peace and human dignity and justice, fairness, and equity. It is a morally righteous precept that guides efforts to pursue fair treatment against unfair activity.

Over the years, there has been a sharp increase in juvenile crime. The age of juveniles as well as the severity of their punishment have been the subject of countless contentious discussions and arguments. In the previous ten years, horrible crime was perpetrated. The number of

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juveniles in late adolescence has greatly increased. The lack of parental care, together with their inadequate education and mental disorder, is the only other factor contributing to their bad upbringing. The most important stage of a person's life requires adequate guidance to shape them into citizens. However, the kids are pushed down the wrong path by peer pressure, substance misuse, and exposure to pornography. Therefore, rather than arguing among themselves, the Judiciary and Human Rights must work together to rehabilitate juveniles.

## **CONCLUSION**

Justice is defined as "concern for justice, fairness, and equity" for people. It is a morally correct notion that seeks to balance unfair behaviour and treatment. Juvenile delinquency is defined as an act committed by young people against society. Juvenile justice refers to what is right, fair, and equitable for the kid or young person in terms of forming their social identity. The term "Juvenile Justice System" refers to a procedure used to address issues affecting children and society. JJS's main goal is to protect children by using the proper treatment and by fostering a culture that promotes the growth of a good self-concept. JJS is a political and social strategy to foster an environment for the care of juvenile offenders.

According to common law, a kid who is less than the age of seven is incapable of committing a crime. When the judge determines that a child between the ages of seven and fourteen had criminal intent with unlawful actions, the child may move forward in the juvenile justice system. If the kid is between the ages of fourteen and twenty-one, the court might treat him or her as a grownup and refer them to the criminal justice system for adults. In most places, there is no defined age at which a child can be charged with a crime; nonetheless, if the kid is under that age, the court will not consider them to be legally guilty.

Due to inadequate coordination and infrastructure, "social legislation in India is consistently found to be ineffective." It is necessary to turn to these JJS clogs. The basis of the system of juvenile justice is the idea of social welfare and children's rights. Improvement and recovery are the main priorities. The objective is to provide the child with a prospect to explore his personality. After all, the goal is to go forward and establish a more egalitarian society. The personalities of children must be changed from negative to positive. But given historical performance, we must close the enormous gap between research and practice. We must create an effective juvenile justice administration and infrastructure during this process.