

A Comparative Study between the Juvenile System and the Adult Justice System—A Critical Study of the Juvenile Justice Act

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Abstract

Over the past couple of years, most of the countries on the globe have experienced a stimulating increase in crime rates. No specific cause for any disease or criminal activity can be identified. There are instances when society, culture, various family structures, political influences, and law enforcement are to blame for a person's illegal activities. India's rate is rising. Crime can take many different forms. Not only do adults commit crimes in India, but juvenile delinquency is rising more quickly. Teenagers are now engaging in horrific crimes, including gang rape, murder, and kidnapping. It is a troubling trend that these young and innocent youngsters are selecting the juvenile justice system rather than creating a safe and promising future for themselves. Children are a gift from God, and their minds are fertile, so this trend is abhorrent. However, many social factors are brain-damaging young and defenceless youngsters by instilling criminal characteristics in them. This is often a research paper that deals with the comparison of the criminal justice system, and, therefore, the juvenile justice system, brings out the differences and similarities between both systems, and also discusses the causes of crimes and delinquency. Additionally, the research report details how juvenile criminals and adult offenders are tried.

Keywords: Adult offenders, criminal justice, juvenile offenders, juvenile justice act

INTRODUCTION

The majority of nations on the globe have seen their crime rates significantly rise over the past few years. No specific cause for any disease or criminal activity can be identified. Sometimes a person's criminal behaviour is the result of influences from society, culture, various family structures, politics, and law enforcement. India's crime rate is rising. There are many different types of crimes. Not only do more adults commit crimes in India, but youth delinquency is also rising more quickly. Recent years have seen an increase in the number of children engaging in horrible crimes such as gang rape, murder, and kidnapping. It is a troubling trend that these young and defenceless children are choosing the realm of crime rather than creating a safe and promising future. Since children are God's gift and have a fertile

mind, this trend is abhorrent since, sadly, there are many social forces instilling criminal qualities in young, defenceless children and corrupting their minds. Criminal courts can change drastically between a person tried as a juvenile and a person tried as an adult. These two criminal court systems can both carry out serious punishments, but there are noticeable variations between the two. If a person has the option to be tried as a juvenile or adult, it may be in their best interest to be tried as a juvenile because of these differences. The criminal justice system whether for adults or juveniles, can leave a person working through substantial criminal

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sentences. These sentences may include a variety of penalties, most notably detention and financial fines. The criminal justice system (CJS) is the set of policies and institutions of the government aimed at maintaining social order, preventing and mitigating crime, or punishing lawbreakers with harsh punishments and efforts at rehabilitation. Justice and rights are upheld by CJS for both victims and offenders. The juvenile justice system (JJS), which is a subset of the wider criminal justice system, was developed with the premise that juvenile offenders needed to be dealt with differently from adults in the system. This is a research paper which deals with the comparison of the criminal justice system and the juvenile justice system, brings out the differences and similarities between both systems and also discusses the causes of crimes and delinquency. And the research paper includes procedures regarding the trial of juvenile offenders and adult offenders.

Legal Background

With the intention of protecting children, the act was passed in the year 2000. The law was modified twice, first in 2006 and then again in 2011. The change was made to close the implementation's gaps and loopholes. In order to address the issue of juvenile justice, India has created a legal provision that specifically addresses the rights and protection of juvenile offenders. Also juvenile justice system in India made three main assumptions, which are:

1. Instead of having young criminals tried in court, there should be every effort made to correct them.
2. Young criminals should not be penalised but rather given the chance to change their ways.
3. The non-penal treatment provided to children during their trial should be based on the communities' social control structures, such as special homes and observation houses.

RESEARCH PROBLEM

The matter of treating 'juvenile delinquents' or 'juveniles in conflict with law' has always been a subject of debate since it involves a tension between social welfare and social control, that is, whether to focus on the best interests of the individual child or on protecting society from certain offences.

Research Questions

1. Whether the progressive lines between the adult and juvenile justice systems are blurry?
2. Whether treating juveniles as adults in certain circumstance is acceptable?

Hypothesis

The main reasons for both juvenile and adult crime are the parental neglect, peer pressure, low self-esteem, and drug abuse.

OBJECTIVES OF THE STUDY

- To study the causes of delinquency and crime
- To understand the preventive measures against crime for juvenile
- To study the law related to juveniles and the adult criminal system
- To know the procedures for trial of both juveniles and adults

RESEARCH METHODOLOGY

For conceptual clarity and understanding the evolution of laws relating to the juvenile justice act and criminal justice system, the doctrinal approach has been followed. Accordingly, the relevant statutes and case laws have been collected and analyzed. To develop an understanding of the research topic and delve into the implementation aspects, empirical research has been carried out.

The research work has made extensive use of secondary data available through research articles, books, reports, magazines, newspapers, case laws, etc.

LITERATURE REVIEW

The Juvenile Justice System in India: From Welfare to Rights (Ved Kumar)

This groundbreaking work has been updated with new content and provides readers with the most recent information about the juvenile justice system in India. The lack of data on children is still glaring, and welfare perspectives weaken the rights-based approach. Though some defensive strategies are revealed in analyses of cases from the higher courts, decisions are frequently made without considering competent legal counsel or a thorough investigation. The system as a whole is less successful when there is a lack of coordination between the various juvenile justice agencies. Many difficult problems have been clarified by the Juvenile Justice (Care and Protection of Children) Act, 2000 revisions, and the Model Rules of 2006, but their effectiveness depends on how the courts and enforcement agencies put them into practise. Kumari's meticulous investigation and insightful analysis of these and other factors strongly urge increased adoption of a rights-based and comprehensive approach to juvenile justice.

The Criminal Justice System in India, Hardcover (H.R. Bhardwaj)

The criminal justice system in India emphasizes the reality that judges and lawyers have a duty towards society, and their integrity and felony acumen determine the finer points of justice. In a democratic society governed by using rule of regulation, the state has a right to do what is fair and simple. At the same time, the legitimate declaration of the residents must no longer be defeated. This study has reviewed the diverse palms of the judiciary and tried to give the criminal justice system in India a brand new attitude with a focus on human rights and civil liberties.

JUVENILE JUSTICE SYSTEM

The legal community is concerned about children who commit crimes; thus, they have a sophisticated position in that regard. Children are less likely to grasp the laws, so they should receive extra protection. They do not, however, have all the constitutional rights that adults do because they are still children. Many of the juvenile court procedures are an attempt to strike a balance between these two issues and help juvenile offenders. In juvenile procedures, minors do not enjoy all of the same constitutional rights as adults.

Although they would probably not normally obtain them in adult court, children do have some additional protections within the judicial system. Their records are sealed so that they will not be troubled by their youthful transgressions for the rest of their lives. When a child turns 18, or when a young person fulfils certain requirements, their records are typically purged (erased). Additionally, individuals are entitled to notice of their offences prior to the adjudication hearing, prerelease if the offences are not violent, and the right to counsel, including a free attorney if they cannot afford one.

The judge determines the case's "disposition", or whether the juvenile is guilty or not, and the appropriate penalty, once the case has been decided. When deciding on a sentence, judges must adhere to a set of rules and consider what is best for the child. A juvenile sentence's goal is not to punish, in contrast to one of the objectives of a typical adult criminal case. Instead, the juvenile's rehabilitation is the main objective in order for them to live a fruitful adult life.

The 2015 Juvenile Justice (Care and Protection of Children) Act was finally approved by the Indian parliament. It took the place of the prior acts. The law was passed on December 22, 2015, and it became effective on January 15, 2016. The Juvenile Justice Act has differentiated minors into two categories:

- Firstly, it has defined "child in conflict with the law" as a child who is below the age of 18 years and has committed a certain offence [1].
- Secondly, it has defined "child in need of care and protection" as a child who is below the age of 18 years and needs some special care and protection by the state government [2].

As established by the act, the maximum punishment to be provided to the child is 3 years. But the new 2015 Act has made some specific changes. According to the new act, if the child has committed

some grave and heinous offence and is over 16 years of age, he can be treated as an adult. However, this is done only after considering the mental capacity of the child at that time.

CRIMINAL JUSTICE SYSTEM

The criminal justice system is basically a device for social management. Society considers a few behaviors so dangerous and adverse that it either strictly controls their occurrence or outlaws them outright. It is the responsibility of the businesses of justice to forestall those behaviors by apprehending and punishing transgressors or deterring their destiny. Despite the fact that society keeps different sorts of institutions moving, like the circle of relatives, faculty, and church, they are designed to cater to moral, not criminal, misbehavior. The simplest criminal justice gadget has the capability to adjust crime and punish criminals [3].

The following categories can be used to group the main goals of the criminal justice system:

- To stop crimes from happening
- To punish offenders and transgressors
- To rehabilitate offenders and transgressors
- To offer the victims the best feasible compensation
- To keep social order and law
- To prevent the criminals from committing further crimes

The basic objective of the Constitution is that everybody should receive ordinary care and protection. The main aim of establishing a separate criminal justice system in India is to confirm that society is being shielded from criminals. For this purpose, the Indian criminal justice system comprises the Indian legal code and the code of criminal procedure. The Indian legal code could be a statute for a substantive law that lists out the offences and punishments for the same.

Mainly, the adult justice system consists of three branches:

- Firstly, the branches dealing with enforcement, i.e., the police.
- Secondly, the branches for solving and justifying the offence, i.e., courts.
- Thirdly, the branches for implementing the punishment so that the probability of future offences can be minimized.

CAUSES OF JUVENILE DELINQUENCY

Research and studies show that there are various causes of minor delinquency in India. All of us have one-of-a-kind behavior styles, as is the case with kids. Conduct styles develop in the early formative years, and at this early stage, it is very tough to perceive any type of behavior. However, as soon as an infant grows up and comes out into the real world, their behavior styles change, and lots of instances or situations can arise that lead to delinquent conduct in them.

Adolescence Instability

One of the key components of an adolescent's behaviour pattern is their biological, psychological, and societal makeup. At this level, young adults grow to be more conscious of their appearances and models, entertainment, food, play, etc. And at this age, they need freedom and want to be independent, but occasionally, when their parents, instructors, and elders provide them with opportunities, it leads to the development of anti-social behaviour in them. Hence, anti-social behavior, biological modifications, and psychological reasons are some of the reasons that can account for juvenile delinquency.

Disintegration of the Family System

The main causes of the rising rates of juvenile delinquency are also the breakdown of the family system and weak parental supervision. In everyday cases, divorce between dad and mom, lack of parental manipulation, and lack of affection are the important elements of sweet sixteen delinquencies.

Economic Condition and Poverty

Poverty and terrible monetary condition are likewise taken into consideration as the foremost contributing elements to growing juvenile crimes. As a result of poverty, dad and mom, or mother or father, fail to meet the needs of the kids, and at the same time, youngsters desire that their goals should be fulfilled by parents through hook or by means of preparing dinner and while their goals are met, they start themselves indulging in stealing cash from homes or from every other parent. And this increases the ordinary tendency to steal, which ends up in theft on a large scale.

Migration

The migration of abandoned and poor young men to slum regions exposes them to anti-social elements of society, such as prostitution and drug and substance trafficking. Juveniles find those activities quite appealing, and they may participate in them.

Sex Indulgence

Kids who have experienced sex assault or some other type of unwanted bodily assault in their early formative years can also increase any form of repulsiveness in their behavior and mind. In this age, they may become more vagrants or may also need to have intercourse. Too much sex variance may additionally lead the lads towards the crime of kidnapping, rape, etc. [4].

Modern Life Style

It is quite challenging for children and teenagers to adapt to the new lifestyles due to society's and modern life's quick changes. They struggle with issues related to cultural disputes and lack the ability to distinguish between right and wrong [5].

CAUSES OF CRIME

Though it is miles from possible, as it should be outlined, what may also pressure a person to dedicate any crime. Sometimes situations that appear regular might also have a distinct impact on someone, and it depends on that individual's intellectual stability and condition as to how they react to them. Now, nobody has criminal tendencies; however, what scenario may trigger such behavior is hard to determine.

Lack of Education

The most commonly seen cause of crime is a lack of educational values. It is not like those with education do not commit crimes; rather, it only means that those without it are more likely to fall into criminal traps. A lack of knowledge also reduces one's chances of finding employment, which forces one to take the wrong path in search of quick cash.

Ineffective Legal System

Even now, whenever a dispute arises, people say "I'll see you in court", but long delays in the decision making system and sometimes a little slack in the duties of the investigators lead to the person actually liable roaming around freely. Our law fails to deliver justice to the harmed because wealthy and powerful prisoners do not even have to spend time in jails—they simply receive bail or stay out on probation. In such circumstances, the key component is corruption. This sense of escaping punishment for whatever they have done motivates the wrongdoer to carry out their heinous deeds and foment crime and fear.

Poverty

Unemployment is the primary cause of poverty. With the increase in population, it is getting harder for people to find jobs. With no jobs and no means to earn a square meal a day, people resort to alternate solutions, which are not always legal. Poverty is a true evil for society, as it gives rise to not one but a large number of problems.

Alcohol and Drugs

Even after multiple restrictions, people still get their hands on alcohol and various kinds of drugs. Nowadays, underage drinking is quite popular. Teenagers who have drug addictions often engage in

illegal drug sales and purchases. Due to the fact that these substances cause people to lose their sense of reason, many crimes are committed while under the influence of alcohol and other narcotics. Numerous crimes, including murder, domestic violence, and driving while intoxicated, are caused by alcohol. Criminals also use drugs to induce delusions in their victims so they can commit crimes against them. An example can be rape, robbery, kidnapping, etc.

Virtual World

Earlier, there were no laws against crimes committed in the virtual world, but now the law regards cybercrimes as equally punishable as any other crimes as they have the same disastrous effect on a human being's life. "The modern thief can steal more with a computer than with a gun. Tomorrow's terrorists may be able to do more damage with a keyboard than with a bomb [6]." Hacking, fraud, impersonation, etc. are some crimes that take place online.

RELATION BETWEEN THE JUVENILE JUSTICE SYSTEM AND THE ADULT JUSTICE SYSTEM

Though many major differences exist between the two court systems, there are actually quite a few important similarities you should know about. Most importantly, both systems help defendants—adults or juveniles—keep their rights. The three main rights and similarities are mentioned here.

- Both have the right to know exactly what the charges are against them.
- Both have the right to confront and cross-examine witnesses in court.
- Both have the right to an attorney when needed.

This goes to show that, although there are some big differences between juvenile and adult cases, there are some important underlying similarities that play a large role in the overall ethics of the criminal court system.

Both adult and adolescent defendants have many of the same rights in both legal systems, including:

- Access to legal representation
- Freedom from self-incrimination
- The ability to confront and cross-examine the witnesses who are testifying against you
- The right to understand the accusations made against you
- The accusation against you must be proven beyond a reasonable doubt by the prosecution.

DIFFERENCE BETWEEN JUVENILE JUSTICE SYSTEM AND ADULT JUSTICE SYSTEM With Respect to Arrest

When a juvenile commits an act, the police have a primary duty to take custody of the kid and detain him to present him before the Juvenile Justice Board. The kid is produced before the board by any non-public party after informing the police. If any individual commits a crime against the law, the police have a primary duty to verify the age of that person before arresting them. If an individual is found below the age of 18 years, he or she should be treated as a juvenile. A separate investigation procedure is to be followed, and a written account is ready for the police to present before the Juvenile Justice Board. The police cannot hurt the kid or take any action that is harmful to him. On the other hand, if an adult commits any crime, he is taken into consideration by the police. The police are required to conduct research on such matters and prepare a written account. The person is then presented before the adult court for further proceedings.

With Respect to Proceedings

The procedure to be followed within the adjudication hearing is different in the case of a juvenile. The juveniles are empowered to be directly heard by the judges, and they do not seem to be entitled to be presented before the jury for hearing as in the case of adults. The records of the juveniles are also sealed and do not seem to be likely to be reopened further as just in the case of adults. As soon as the juvenile turns 18, the records are removed after considering the juvenile's actions. The court determines

the seriousness of the act, and if the act is delinquent, then the juvenile is shipped for rehabilitation. The aim of the court while coping with juveniles is to provide the correct counseling and guidance to the kid so he or she will be ready to understand the character of the action and learn good conduct. On the other side, in the case of an adult, the aim is to provide punishment to the offender.

With Respect to Confidentiality

The act establishes the fundamentals of secrecy and the right to privacy. To ensure the child's protection, this means that the child's identity cannot be exposed under any circumstances. This provision also makes it easier for the youngster to later reintegrate back into society. Therefore, all reports from social workers and the probation officer are private. No medium, whether print or electronic, may publish any information that reveals the CCL's identity, such as name, residence, school name, etc. The JJB can allow the publication of such information, but the CCL's images cannot be reproduced. If it believes that such disclosure is in the child's best interests. Identity revelation is a punishable offence under the act. The criminal justice system does not have a mandated secrecy principle. Public access to court proceedings and the ability to publish criminal records are also available.

With Respect to Bail

"Bailable" and "non-bailable" offences are specified in the adult criminal justice system under the CrPC. Bail is denied for those accused of non-bailable offences because they are seen as significant crimes that pose a risk to the community from perpetrators who might cause more harm, tamper with evidence, or threaten victims. Depending on the type of offence committed, bail may be granted or denied. However, the decision to issue bail in cases where it is permissible to do so rests with the judge. The CCL is eligible for bail in the JJS regardless of whether the offence under the CrPC is bailable or not. The presumption is therefore in favour of bail, but the reasons for refusal are numerous and include instances where "there appear to be reasonable grounds for assuming that release is likely to expose the child to moral, physical, or psychological danger or that his release will frustrate the purposes of justice" [7].

WHEN CAN A CHILD BE TRIED AS AN ADULT?

Apart from the Juvenile Justice Act, the IPC also deals with some of the provisions related to offences committed by children. The Indian Penal Code has differentiated the age groups in matters related to crime. If a child is under the age of 7 years, he or she cannot be deemed to have committed any crime [8]. A child who is between the ages of 7 and 12 years shall also not be deemed to have committed any crime as far as the maturity of the child and the nature of the crime are considered [9]. According to the Juvenile Justice Act, 2015, if a child who is above the age of 16 and under the age of 18 commits any crime, then the nature of the crime is concerned. If the crime committed by the child is heinous, it is taken into consideration. The maturity level and state of mind of a child are examined and if the child is found to have attained enough maturity to commit such crime then he can be tried as an adult. It is only limited to summon cases.

CONCLUSION

The Indian judiciary is sort of lenient in treating child offenders. The crime committed by a toddler is given lesser significance as compared to the crime committed by an adult. If an offence is committed by a baby, it is considered a delinquent offence while, if the offence is committed by an adult, it is considered a criminal offence. Their treatment of a baby is different from that of an adult. However, there are some rights that are provided to both juveniles and adults. Whether the offence is committed by a child or an adult, the court should follow the group action of the law while determining the cases. Due process of law means to supply a fair and impartial judgment. Both accused have the right to be treated fairly without bias. After determining both aspects of justice system with reference to the kid as well as the adult, it is concluded that the juvenile justice system within the treatment of kids does not seem to be in conflict with the administration of the criminal justice system. The compatibility of the two systems needs to be carefully considered. A baby's mentality and reasoning abilities develop during

this period. A newborn has the capacity to understand the circumstances and interpret them appropriately. As a result, in some circumstances, the youngster will be treated as an adult while being observed for their mental state.

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