

# Comparative Study of Juvenile Justice in India with other Countries

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## ABSTRACT

The 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 paper discussed all facets of youth crime in major countries and their attempts to combat juvenile crimes and compare the laws of young people in India. This paper also discusses significant variations between the Youth Justice Act of 2000 and the Youth Act of 2015 recently adopted by the Youth Act of the Parliament. The purpose of research is to provide the correct way to deal with young people in major countries by means of a comparative analysis.

## Keywords

Comparative, Crime, Delinquency, Juvenile, Offences.

*Article Received: 10 August 2020, Revised: 25 October 2020, Accepted: 18 November 2020*

## Introduction

Delinquency itself is socially inadequate to respond to challenging circumstances on the part of the child. The factors that make up these complicated scenarios are the causes of crime in conjunction with the emotional and physical problems that impair an individual's ability to change. Each crime requires a variety of triggers, some of which have been committed in the years preceding the crime and others whose roots are more specifically related to the act of criminality unexpectedly. It was shown that a particular set of stimuli is involved in each event. The category of reasons that inevitably lead to any particular crime therefore cannot be identified.

The presence of minors with young people in criminal acts is referred to as juvenile crime. Unique protocols for the treatment of juvenile justice, detention centers, etc. were enforced all over the globe in various legal structures. The youth criminal in India is a person below the age of 18 who has committed actions that under the Indian Penal Code 1860 are prohibited and who if the young were adults might still have been prosecuted for that crime. Depending on the seriousness of the crime and even the spirit of the youth, individuals under it's age of 18 can be judged as adults.

Under seven children had not if the establishment of juvenile courts been kept responsible for criminal actions. The law did not consider them able to shape the criminal intent required. Children aged 7 to 14 were usually considered not capable of perpetrating a criminal act, though it could be debunked by showing that the young people understood that the act was a crime and that it was dangerous for someone else or did it nevertheless. Children over 14 years old can be convicted and regarded as an adult for a crime. Sometimes the judges decide this or other countries that approve transfers require a hearing to determine the age and history of the victims, the essence of the crime and the capacity of the juvenile tribunal to help the young. Owing to a conservative approach to youth crime, many countries have changed their youth codes to make it

easier to report juvenile offenders to adult courts. In recent years, young people have experienced an spike in violent crime. Further crime, including murder, which is sometimes connected with drugs, gangs or both, was involved. Consequently, in a handful of regions, the threshold for treating minors as adults has dropped further. Some people claim that other teenagers should then be charged as adults if they commit such violent crimes.

## Discussion

### Juvenile Justice (care and protection) Act, 2015:

The Juvenile Justice Act, 2000 came up with the guidelines for dealing with children in dispute with the law and children in need of care and protection. The new Juvenile Justice Act, 2015 also came up with the guidelines deals with both children's groupIt recommends that the Juvenile Justice Boards and the Child Welfare Committee (CWCs) be set up in each district to deal with these children. The new act also called for children between the ages of 16 and 18 to be prosecuted for heinous crime as adults.

A person under the age of 18 is considered to be a juvenile in India, but it is clearly stated in Indian Penal Code, 1860, that a child cannot be prosecuted for any crime before he reaches the age of 7. As of January 15, 2016, the Juvenile Justice Act came into force. The act was the result of the 2012 Delhi gang rape case, also known as the 'Nirbhaya' gang rape case, which resulted in a great hue and cry among people lined the streets in protest against the victims of gang rape. In August 2014, the Juvenile Justice Act, 2015 was presented in Lok Sabha and justified on different grounds. The government argued that the Youth Justice Act, 2000 faced issues of enforcement and procedural delays in adoption, etc. National Crime Records Bureau data show a rapid rise in juvenile delinquency. Thus according data, 33,526 cases (under the IPC) of children as young of 18 were reported in 2014 as against the country's average of 28,51,563.

Under the Youth Justice Act, 2000 children under the legislation can invest a maximum period of 30 days in institutional care (special home etc, regardless of the type of offence), irrespective of the type of offence committed. It is not permitted to prosecute or prosecute the child as an adult and send to such an adult prison for longer than three years, while in 2015 it considers all children aged 18 years and under similarly, without a departure. As a criminal, someone who commits an atrocious offense between the ages of 16 and 18 can also be prosecuted. The Youth Court Board shall evaluate the children's mental and physical strength, comprehension of the consequences of the crime, and so forth.

The new act recognizes the need for care and protection of children. When an infant is found to be orphaned, neglected, or surrendered, within 24 hours he will be taken to a Child Welfare Committee. A report on social assessment undertake for the child, and the committee agrees either to send the child to the home or any other institution it considers appropriate, or to make the child free for adoption or treatment. For prospective parents, the act outlines the eligibility criteria. The new act calls for JJBs to include psychologists and sociologists to determine whether a juvenile delinquent can be tried as an adult in the 16-18 age group. The Act also introduced numerous provisions of the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption, which were excluded from the previous act. The act has been widely criticized for implementing the 'Judicial Waiver System' that requires minors to be tried and punished as adults under certain conditions.

#### **Comparative study of juvenile delinquency across the world:**

In New Zealand, child and youth law has not differentiated for a long time between delinquent and needy children. There were also no legal protections applicable only to juvenile offenders, until the Children, Young People and their Family Act (CYPFA) of 1989. The Act is today New Zealand's primary legislation affecting juvenile justice, the supervision of prosecutions of young criminals and the legal implications for young people who have broken the law. The CYPFA is incorporated to update the law on the treatment, security or non-legislation of children and adolescents. The Act's purpose is: fostering the well-being of children, teenagers and families through the provision of accessible services and processes, aiming to include an extension to them. The new law sets concrete priorities and brings into statutory form 'a detailed set of principles regulating state involvement in children's and youth lives and youth justice management.'

The date on which the crime is reportedly committed is the correct date for determining the age of the young offender. When a child offender is 10, 11, 12, or 13 years old, the perpetrator is a person committing the crime. The Crimes Act of 1961 and the CYPFA mean that, unless the child understands either that the omissions is morally unacceptable the contrary to law, children between 10 and 14 years of age will not be punished for any crime other than assassination or massacre. The prosecutor has the obligation to establish that even the defendant has

considered the crime or crime to be illegal or unlawful. The Court of Justice shall hold a preliminary hearing of the case. In such situations, the CYPFA rules apply as though the child are really a young person with these kind of exceptions.

The Crimes Act of 1961 lays down the age of criminality. Under section 21(1) of the Crimes Act, the criminal liability age is 10 years which guarantees that no person under the age of 10 years is found guilty of an offence. This does not, however, affect the liability of any other person alleged to be a party to the offence.

Diversion systems at various levels are a central element including its youth justice system in New Zealand. The new framework of the CYPFA facilitates the freedom from trials and incarceration and encourages the advancement of recovery and reintegration strategies for young people, helps their families and takes care of the needs of the victims. They also encourage responsibility of younger generations. Law officers may handle minor or first-time criminal crimes, while the Juvenile Court would consider a more serious or recurring crime. The data shows that about 44% of young offenders in New Zealand are handled by police alert (frontline or youth support police officers), about 32% by the youth assistance diversion department, about 8% by direct references to a family group conference (FGC), and about 16% by youth court complaints and a FGC.

Across Germany there is a clear distinction between the persons charged, on the one hand, with juvenile offenders and then on the other, with children and young people in want of care and security, because of the traditional history of German youth legislation. Thus, only juvenile offenders are protected by the German Youth Justice Act (JJA) in Germany.

As America has long been the rule of England, American legislation is strongly influenced by the common law of England. In the United States the phrase "time for adult crime" is adapted. The peak age of youth in 38 states is 17 years, while in other three states it is 15 years.

In almost all U.S. states, there is unanimity in prosecuting juveniles on a par with adults on juveniles who reach fourteen years of age in certain cases except states such as Vermont, Indiana, South Dakota where even ten years of age can be tried as adults. There are various forms of penalties given to juveniles as far as the penalty component is concerned And prison sentence can be accorded to children under 12 whom were deemed to be the highest sentence for abominable offences. Youth who are guilty of serious offenses shall be detained and taken part in programs of diversion in a safe and healthy environment. All this is done to monitor young adults. Furthermore, intensive care, such as boot-camps, and the collective penalty for drugs including gang-related crimes, have been enforced. As far as the maturity aspect is concerned, when the children are typically 13 or 15 years of age and commit a grave and grievous offence, their cases are immediately referred to the adult court. Juvenile courts are automatically disqualified from jurisdiction in such cases.

### Contrast between India, united kingdom and united states of America:

#### India:

In India the act provides following powers of Juvenile justice Board.

- Watch house (Section 8). Watch Home. Set up for a provisional reception, during the pending investigation under this Act, of any youth in conflict with the law. They are to be established by the State Govt.
- Homes for special needs (Section 9). The State Govt is to be established. To ensure the care of special homes, including expectations and different kinds of programs that are required in order for a young person to re-socialize.
- Homes for children (Article 34).The State Government can set up, maintain, or in collaboration with voluntary institutions, households for children (Article 34).
- For the reception of a child in need of care and safety in the course of any investigation and subsequently for their care, recovery, training, growth and rehabilitations in each district, or as a partner of charitable organisations, children's homes, the State Government should create and sustain itself.
- Housing homes (Section37) State governments which identify, identify and provide the trustworthy and capable volunteers and support the establishment and administration of as many households as possible for youths or children.
- Implementation of children who are orphans, neglected or surrendered by such methods as may be required shall be used to rehabilitate adoptions (section 42).
- Support of a child (Section 42) in foster care can, depending on the details under which a child's parent visits frequently and ultimately after recovery and returns home, be placed within an other relative for a short or longer time.
- The child will return home.

#### United states and united kingdom:

There are a wide range of sentencing options for juveniles or young offenders.

- Institute with juvenile offenders.
- The JJ Court will order imprisonment as a punishment after a child is convicted of crime. However, this prison is distinct from those used in the criminal justice system for adults. Such common forms for judges to order a juvenile who is considered suspect to be confined:
  - -- Home containment: the judge can, excepting school attendance, employment, counselling, etc, guide a child to stay at home.
  - Position with someone other than a parent or guardian: the judge may recommend that the child live with a family, in a group or in a community.
  - Youth detention center: the judge is allowed to transfer the child to the detention centre.
  - Counseling: Judges also require juveniles to be present as part of a consent order. Counselling:

- Community service: Offenders may be ordered to work in service to the local community for a certain amount of hours.
- Electronic monitoring: The young will have to wear a bracelet or wrist to verify their position at all times..

### Conclusion

Child has the right to even a happy, uplifting and rejoicing existence, the right to grow up in a fun and safe atmosphere, the right to free himself from the difficulties of life, etc. However, there are some of them who are weak and lost and who are neglected and grow up to be unwanted children or otherwise call them young offenders. Globally, a variety of laws have been adopted to deal with young criminals. In India, the Juvenile Justice Act, 2015 is far from being a perfect law for protecting and upholding children's rights. In the present statute, the flaws in the earlier legislation were repeated.

The system of juvenile justice is currently in limbo. Finally, by drafting comprehensive rules in collaboration with child rights experts and non-governmental organizations, the respective governments can fill the lacunae. Under Section 70, the Central Government is allowed to eliminate any difficulties that obstruct its successful operation within two years of the Act's entry into force. Let's put the Juvenile Justice Act (Care and Children's Protection) to the test, and make most of this provision to streamline its efficacy, keeping children at the center stage.

The 2015 Juvenile Justice Act (Care and Protection of Children) provides the primary legislation not only for the care and protection of children, but also for the adjudication and treatment of children in conflict with the law. The system of juvenile justice is limited in its scope to the delinquent children and others in need of care and protection. The word youth justice covers all aspects of the complicated system that involves the care of underage children and youth.

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