



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

HISTORICAL DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM IN INDIA

ASEEM PRASENJIT¹
POONAM DEVI²

¹ RESEARCH SCHOLAR College of law IIMT UNIVERSITY MEERUT

¹ RESEARCH SCHOLAR College of law IIMT University, MEERUT

ABSTRACT

The term juvenile is a stigmatic time period which essentially refers to a infant beneath certain prescribed age who has been alleged or located to have devoted an offence. The global documents managing the human rights of the kids has not been a hit in replacing this stigmatic term. The United international locations conference on the Rights of the child 1989 also makes use of the time period 'youngsters accused of'. In India, for the primary time efforts changed into made to equate the time period juvenile with the term infant or vice-versa with the concept of doing away with the stigma connected with the term juvenile via the provisions of the Juvenile Justice (Care and safety of children) Act 2000. The time period juvenile refers to juvenile antisocial what now is known as juvenile in conflict with law and the time period toddler refers to unnoticed juveniles what now's referred to as youngsters in want of care and safety. the sooner legislation additionally attempted its first-rate to provide some other that means to the time period juvenile but failed. Juvenile justice law in India from 1920 to until the passing of the Act 2000 maintained the clear difference among left out juvenile and juvenile antisocial.

KEY WORDS: Juvenile, Justice, Delinquents etc.

INTRODUCTION

Historic India although governed with the aid of a number of legal guidelines hardly ever had any regulation mainly dealing with juvenile delinquency. As the problem of omitted children and juvenile delinquency grew with times, a need for regulation to that effect turned into felt. India, a British colony then took concept from England, which via then had already surpassed its personal juvenile rules. The Apprentices Act changed into handed in 1850 because the first juvenile legislation to deal with kids in India. As consistent with the provisions of this act, children between ten to eighteen years of age determined indulging in crime have been

¹ RESEARCH SCHOLAR College of law IIMT UNIVERSITY MEERUT

² RESEARCH SCHOLAR College of law IIMT University, MEERUT

located in apprenticeship in a change. The Indian Penal Code got here after another ten years had handed. Although it is not a particular legislation managing juvenile justice, but it has a few provisions on the subject of underage criminals. Section 82 of the IPC grants blanket immunity to a baby underneath seven years of age imbibing the precept of doli incapax. Thereafter, a prison committee was appointed in 1919 following the suggestions of which separate law coping with juvenile delinquency were enacted in one-of-a-kind provinces, the primary ones being in Madras, Bengal and Bombay. when you consider that then, as Professor B.B. Pande of Delhi university puts it, 'the dual ideas of teen delinquency and juvenile justice have gone thru a steady technique of evolution and refinement.'³

1.1 DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM IN INDIA

(a) DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM PREVIOUS TO 1773

Both the Hindu and Muslim legal guidelines had provisions for the preservation of children. The primary responsibility to carry up youngsters become that of dad and mom and own family. Charity for the care of bad and destitute has been a noble cause below both Hindu and Muslim legal guidelines and not directly provided for the care of children in case of failure of the family to achieve this. Muslim regulation makes it obligatory for someone who finds an deserted toddler to take its charge, if he has reason to consider that it could otherwise perish. it is normally maintained that neither set of laws had any reference to juvenile delinquents. but, a cursory look at of the Manuscript and The Hedaya show differential punishment to children for certain offences. for instance, underneath the Hindu regulation, a baby throwing dust on a public avenue become no longer answerable for punishment however only to admonition and made to smooth it, while and person in similar circumstances become to pay a discover and made to clean the filth. The Hindu regulation ordained the King, as turned into the case with the equity courtroom in England, to attend to a infant's property till he got here of age and became capable of taking care. these kind of provisions sincerely show that children were recognized as separate entities from adults, needing special care shape others for their survival, and now not completely responsible for their acts. But an intensive and comprehensive studies in but to be undertaken to find out whether these legal guidelines had a comprehensive gadget of teenage justice, or how the differential concepts really perform, or how far the punishment turned into individualized. This type of studies can be beneficial in explaining the idea of child in Indian tradition⁴.

(b) DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM DURING 1773 TO 1850

The period between 1773 and 1850 started with the emergence of the East India Company as a governing body form a trading business enterprise and ended with the creation of the primary law regarding children. This period additionally saw the conversion of prisons from locations for transporting convicts to locations for retaining convicts, following the tips emanating from the nation and inner arrangements of the Bengal jail. Dr Buist, who turned into instrumental in the established order of the ragged school, Bombay now known as the David Sassoon business faculty. The gadgets of the college have been (i) the reformation of

³ Srivastava S.P: Juvenile Justice in India (Policy Program and Perspective), 1989, Ajanta Publications (India) Delhi, p. 5

⁴ Supra Note 6

youngster offenders arrested by means of the police, and (ii) the encouragement of apprenticeship among the working lessons. Some of these trends together prepared the ground for the advent of the Apprentices Act 1850⁵.

(c) DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM DURING 1850 TO 1919

Much legislation had been enacted in this era protecting a extensive range of subjects concerning youngsters. The woman Infanticide Act 1870, and the Vaccination Act 1880 sought to at ease existence and fitness of babies ; the Guardianship and Wards Act 1890 made provisions for their persevered care and protection. Lifestyles of infant labour and need for unique provisions for them turned into identified by way of the Factories Act 1881. in the subject of criminal justice, a regulation towards the forcible abduction of kids changed into proposed in 1848 following the abduction of a 7 to12 months to antique lady due to private vengeance. Beneath the present regulation, the forcible taking of girls without their discerns permission for the motive of sale or fifty one prostitution became an offence and this situation became concept to be no longer included with the aid of the regulation. However the draft regulation became no longer accredited and it was stated that, the case changed into blanketed with the aid of unlawful trespass. The Indian Penal Code 1860 (IPC) declared kids beneath 7 years of age as doli incapax, whilst the presumption of mens rea can be rebutted in case of youngsters inside the 7to12 age institution. jail reports within the meanwhile⁵⁸ persisted to point closer to the need or alternate in policy and management. Noticing the high charge of re committals and the remarkable growth in the quantity of minor offenders (Poona mentioned an boom from one in 1860 to 60 to 65 in 1861), the government requested for in addition rationalization, as additionally the names of jails having separate provisions for juveniles⁶.

(d) DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM DURING 1919TO1950

one of the most great developments in the records of the juvenile justice gadget in India is the record of Indian jail Committee 1919 to 1920. It undertook the maximum complete exercising for the overhauling of the whole prison gadget after visiting several jails and penal complex colleges within the United States of America and aboard. Practise for a youngsters Act had been underway in Madras on the grounds that 1917 and it exceeded the rules in June 1920, and the pointers of this Committee supplied the impulse for the enactment of comparable legislations by using different states too. Its recommendations referring to them should be stated in some element as they have got resounded in next reports, policy statements, and different for, and are similarly relevant these days. The record talked about that the ordinary healthy infant criminal is specially the fabricated from an unfavourable surroundings and that he's entitled to a fresh danger underneath higher surroundings. There a trendy consensus that as young people is the time while behaviour have no longer emerge as constant, the possibilities of reformation are then maximum hopeful. From each point of view it has become agreed that the kid perpetrator have to take delivery of a specific remedy from the adult.

⁵ K. Rosenhein Margard, "Organisation and Process of Juvenile Justice", in Janford Kadish (ed) Encyclopedia of Criminal Justice, Vol. 3 (The Free Press, New York, 1983) at 969

⁶ Ruth Cavan: Juvenile Delinquency (New York: Horper & Row Publishers 1981), at 26

The committee observed it undesirable to familiarize the young with the sight of jail existence or to blunt their worry of prison that's one of the most effective deterrents of crime⁷.

1.2 JUDICIAL DECISIONS REGARDING JUVENILES

“In **Bhola Bhagat v. state of Bihar**⁸, it changed into held that where plea is raised with the aid of accused in any court that he become a child at the time of commission of offence it's miles compulsory for the court to take a look at the plea and keep enquiry if important to decide the age and provide a finding within the regard. The court docket cannot forget about beneficial provisions of Acts on technical grounds. The Patna excessive court in **Krishna Bhagwan v. state of Bihar**⁹, in complete disregard to the intendment of the JJA for retaining youngsters far from grownup offenders even in the course of trial, laid down that during case the plea of toddler reputation become taken up in appeal. This appellate court has to continue as if the JJA did now not apply, and file its locating at the rate. Simplest if it observed the accused responsible and prima to facie a toddler on the date of commission of offence, then it ought to ask for a finding of age from the juvenile court beneath phase 32 of JJA.¹⁰

In Bhoop Ram's case superb courtroom became confronted with the question whether or not the appellant who had been convicted and sentenced alongside person accused need to had been dealt with as a infant inside the meaning of the U.P. kids Act and sent to the accepted college for the detention in place of being sentenced to undergo imprisonment in prison. The courtroom after thinking about the cloth on file opined that appellant need to were dealt with under the U.P. youngsters Act instead of being sentenced to imprisonment. The very best court docket dominated that because the appellant is now aged extra than 28 years of age there may be no doubt of appellant now being despatched to an authorised college under the U.P. children Act for being detained there¹¹.

CONCLUSION

The JJA 2015 is a first-rate step backward within the modern and ahead searching philosophy of youth justice initiated with the enactment of the Apprentices Act 1850. by using presenting the usage of prisons in certain circumstances, it has taken India lower back to 1920 while the initial kids Acts supplied for the usage of prisons for preserving kids simplest in outstanding occasions. In 1920, sending children to jail in high-quality occasions become as revolutionary step because it reversed the policy of outstanding use of Reformatories and Borstal to top notch use of prisons. The same can't be said approximately the JJA 2015 which has adopted that approach 100 years later ignoring the developments in understanding bases of disciplines like criminology, penology victimology, psychology, psychiatry, neuroscience, rehabilitation, restorative justice which have equipped us higher to cope with folks committing offences and victims of offences. even as restorative justice is being successfully practiced in many countries even for such severe

⁷ Edward Elde Fonso: Law Enforcement and Youth Offender, 2nd Ed.1972, p. 8

⁸ 1997 8 SCC 720

⁹ AIR 1989 Pat 217, 1991 (39) BLJR 321

¹⁰ Hebert C. Quay: Juvenile Delinquency (1960), pp. 17, 18

¹¹ Sir Cyril Burt, the Young Delinquent (4th Edn 1996) p.15

offences as homicide and rape through adults, leading to lower in repeat offences via them, the Indian Parliament buckled beneath the political and emotional strain created by one horrific case of barbaric gang rape in which one of the accused occurred to be a toddler at the verge of accomplishing majority. it's miles well to regularly occurring principle that one terrible case by no means makes for an awesome regulation. Ignoring that sound exercise, India chose to take the maximum regressive step of introducing retributive technique for young youngsters as a knee jerk response in spite of the stories of countries like usa of the usa and uk which have pronounced that kids tried as adults become committing extra offences in their later existence in comparison to children who have been handled inside the juvenile justice device. This e book is an effort to become aware of the troubles posed through the brand new Act and the possible solutions in order to sell the items of the Act of ensuring care, safety, development and rehabilitation of children falling inside its purview.

REFERENCE

- a) See, O. Nyquist, *Juvenile Justice, A Comparative observe with special reference to the Swedish baby Welfare Board and the California Juvenile courtroom machine*, component II, 1960 (hereinafter Nyquist).
- b) Ibid, at 132, See. A Morris and H. Giller, *knowledge Juvenile Justice*, 1987, p. eight (hereinafter Morris).
- c) S. L. Schlossman, 'history and Philosophy', in 'Juvenile Justice' in S.H. Kadish (ed.), *Encyclopaedia of Crime and Justice*, 1983, pp. 961to2.
- d) R. Coffey, *Juvenile Justice as a gadget to law Enforcement to Rehabilitation*, 1974, p. 38 (hereinafter Coffey)

ARTICLES

- a) Chauhan, Balraj. *Dispensing Juvenile Justice thorough Juvenile Court*, 1 Lucknow University Law Journal, 1994.
- b) Gupta, Shriniwas. *Human Rights of the Child and Judicial Activism in India*, III CILQ 1994.
- c) Mukherjee, R., *Juvenile delinquency in changing city*. Indian Journal of Criminology, 7 (2), 1979.
- d) Pinto, Gerry J. *Juvenile Homes*, 13 Legal News and Views, 1999.