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Juvenile Justice and New Criminal Laws in India

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Abstract

Juvenile justice in India has experienced notable changes over the years. The legal framework tailored to address juveniles in conflict with the law reflects a deeper understanding of the distinctive needs and vulnerabilities of young individuals. Recent amendments to criminal laws, particularly following high-profile incidents, have stirred discussions on finding a balance between the rehabilitative justice for juveniles and the demands for public accountability and deterrence. This paper delves into the progression of juvenile justice in India, analyzes the latest legislative developments, and explores how these new laws are influencing juvenile offenders.

Keywords

Juvenile justice, Juvenile offenders, Legal framework, crime, JJB, CWC, Rehabilitation, Punishment, Judicial interpretation, Mental health, BNSS, BNS, BSA.

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1. Introduction

India's juvenile justice system has long been guided by the understanding that children differ significantly from adults in terms of emotional and cognitive development. As a result, they require a system that not only addresses criminal behavior but also emphasizes their rehabilitation and reintegration into society. The underlying philosophy of juvenile justice hinges on the belief that younger individuals, given their age, can be reformed and should not face punitive actions designed for adults.

However, recent increases in serious crimes committed by juveniles have led to shifts in public opinion, resulting in substantial amendments to the laws governing juvenile justice. Among the most significant changes was the introduction of the Juvenile Justice (Care and Protection of Children) Act, 2015. This paper will explore the evolution of juvenile justice in India, highlighting recent legislative changes, and examining the tensions between a rehabilitative versus punitive approach to juvenile offenders.

2. Evolution of Juvenile Justice in India

The Indian juvenile justice system has its roots in colonial legislation, such as the Reformatory Schools Act of 1897, which focused on providing separate facilities for juveniles. The Children Act of 1960 was one of the first comprehensive post-independence laws for juvenile justice, dealing with both delinquent juveniles and children in need of care and protection. However, the most significant shift came with the Juvenile Justice Act of 1986, which aimed to align India's juvenile justice system with international standards, particularly the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules).

The Juvenile Justice (Care and Protection of Children) Act, 2000 further refined the framework, raising the age of juveniles to 18 and introducing more child-centric approaches. This law reflected India's commitment to the United Nations Convention on the Rights of the

Child (UNCRC), which emphasizes the protection, care, and rehabilitation of juveniles.

However, a turning point in the Indian juvenile justice system came with the 2012 Delhi gang rape case, where one of the offenders was a juvenile. This case led to widespread public outrage and demands for harsher penalties for juveniles involved in heinous crimes. Consequently, the Juvenile Justice (Care and Protection of Children) Act, 2015 was enacted, allowing for juveniles aged 16 to 18 involved in heinous crimes to be tried as adults.

3. The Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice Act of 2015 introduced significant changes to the way juveniles in conflict with law are treated in India. One of the most contentious provisions was the classification of offenses based on their severity: petty, serious, and heinous offenses. Juveniles aged 16 to 18 involved in heinous offenses could now be tried as adults, depending on the assessment of their mental and physical maturity by the Juvenile Justice Board.

This shift marked a departure from the earlier rehabilitative approach to juvenile justice, introducing a more punitive framework for serious crimes. The law defines "heinous crimes" as those that attract a minimum punishment of seven years under the Indian Penal Code (IPC). Some key features of the 2015 Act include:

- ▶ **Differentiation of Crimes:** The act categorizes crimes into petty, serious, and heinous offenses. Petty and serious offenses continue to follow the juvenile justice process, while heinous crimes may result in juveniles being tried as adults.
- ▶ **Juvenile Justice Board (JJB):** The JJB assesses whether juveniles involved in heinous crimes should be tried as adults based on factors such as their maturity level and the nature of the crime.
- ▶ **Child Welfare Committees (CWC):** The CWC addresses the needs of children in need of care and protection, separating their cases from those of juvenile offenders.

While the 2015 Act aimed to address public concerns regarding serious juvenile offenders, it also raised questions about its adherence to the principles of juvenile justice. Critics argue that trying juveniles as adults contradicts the reformatory goals of the juvenile justice system.

4. New Criminal Laws and their Impact on Juvenile Justice

India's criminal justice landscape has also been shaped by new laws and amendments that affect juvenile offenders. Key developments include the Criminal Law (Amendment) Act, 2018, which introduced stricter punishments for crimes such as rape, including the death penalty for rape of minors. The Protection of Children from Sexual Offences (POCSO) Act, 2012 also plays a significant role in addressing sexual offenses against children.

While these laws aim to protect children and deter crime, they also have implications for juveniles accused of committing serious offenses. The introduction of the death penalty for certain crimes has reignited debates about the ethics of severe punishments for young offenders, especially when psychological studies show that adolescents are more likely to engage in impulsive behavior.

4.1 Key Issues and Challenges

- ▶ **Rehabilitation vs. Retribution** : The move towards treating juveniles as adults for certain crimes challenges the rehabilitative ethos of juvenile justice. Rehabilitation has traditionally been the cornerstone of juvenile justice, but recent amendments reflect a shift towards retribution, especially for heinous crimes.
- ▶ **Judicial Interpretation** : Courts in India have had to balance the constitutional rights of juveniles with societal demands for justice. In several cases, courts have highlighted the need for proportionality and have ruled that the purpose of sentencing should remain rehabilitative rather than punitive.
- ▶ **Mental Health Considerations** : The mental and emotional maturity of juveniles plays a crucial role in determining their treatment under the law. The 2015 Act requires the JJB to assess the maturity level of juveniles in heinous cases, but questions remain about the effectiveness and fairness of these assessments.

4.2 Recent Case Laws

The famous case of *Shilpa Mittal vs. State of NCT of Delhi* (2020 SCC OnLine SC 42), has dealt with the classification of offenses under the Juvenile Justice Act, 2015. The Supreme Court examined whether

an offense that did not fall under the categories of "heinous" or "serious", but still carried a maximum sentence of more than seven years, should be tried as a heinous offense. The Court ruled that such offenses should be treated as "serious" offenses and not "heinous", ensuring that juveniles involved in these crimes would not be tried as adults. The decision reinforced the importance of maintaining a rehabilitative approach for juveniles.

In another case, *Salil Bali v. Union of India* (2013 7 SCC 705), the Supreme Court dealt with a public interest litigation challenging the constitutional validity of the Juvenile Justice Act, 2000, which set the age of juvenility at 18. The petition was filed in the aftermath of the 2012 Delhi gang rape case, where one of the accused was a juvenile. The petitioner argued that the age limit should be lowered for juveniles involved in heinous crimes. The Court upheld the constitutional validity of the Act, stating that juveniles, even when involved in serious offenses, should not be deprived of the opportunity for reform. This case was significant in maintaining the rehabilitative ethos of juvenile justice, even in the face of public outrage.

5. Impact of the Three New Laws on Juveniles : *Bhartiya Nyaya Sahita, Bhartiya Nagrik Suraksha Sahita, and Bhartiya Saksha Adhinyam*

The recent introduction of the *Bhartiya Nyaya Sahita* (BNS), *Bhartiya Nagrik Suraksha Sahita* (BNSS), and *Bhartiya Saksha Adhinyam* (BSA) marks a significant overhaul of India's criminal justice system, aiming to modernize the legal framework and address contemporary challenges. These laws replace the Indian Penal Code (IPC), the Criminal Procedure Code (CrPC), and the Indian Evidence Act, respectively. Their impact on juveniles, particularly in conflict with the law, is critical, as these laws incorporate several provisions related to child protection and the treatment of young offenders.

Bhartiya Nyaya Sahita (BNS) : The BNS, which replaces the IPC, introduces specific provisions focusing on reformatory justice for juveniles. It emphasizes the differentiation between juvenile offenders and adult criminals, recognizing the need for a distinct approach to juvenile offenses. The law continues to support the principle that juveniles should not be subjected to the same punitive measures as adults, aligning with the Juvenile Justice Act, 2015, but

with added emphasis on rehabilitation, psychological support, and skill-building programs for young offenders. However, the BNS also reinforces harsher penalties for heinous offenses committed by juveniles in the 16-18 age group, reaffirming that they may be tried as adults if their crime falls within this category.

Bhartiya Nagrik Suraksha Sahita (BNSS) : This law, which replaces the Criminal Procedure Code of 1973, introduces several procedural reforms that aim to streamline justice delivery, including the treatment of juveniles. The BNSS emphasizes child-friendly procedures during trials involving juvenile offenders. It ensures that juveniles are entitled to legal representation, are informed of their rights, and that their mental and emotional well-being is considered during the judicial process. Additionally, the BNSS reinforces that the detention of juveniles should only be used as a last resort, and community-based alternatives such as counseling, probation, and diversion programs should be prioritized.

Bhartiya Saksha Adhinyam (BSA) : The BSA, which replaces the Indian Evidence Act, introduces reforms in evidence collection and admissibility, with specific provisions for handling cases involving juveniles. It emphasizes the protection of juvenile witnesses and victims, ensuring that they are not subjected to retraumatization or intimidation during the evidence-gathering process. The law also strengthens the confidentiality of juvenile proceedings, prohibiting the public disclosure of information related to minors involved in criminal cases. Additionally, it simplifies the burden of proof for juvenile offenders by giving greater weight to reformative intentions rather than punitive actions.

The introduction of the BNS, BNSS, and BSA reflects a continued commitment to balancing juvenile justice reform with accountability for serious offenses. These laws aim to enhance procedural fairness, child protection, and rehabilitation, ensuring that juveniles in conflict with the law are treated with dignity and afforded opportunities for reintegration into society. However, challenges remain, particularly with balancing public demands for harsher penalties in cases of heinous crimes committed by juveniles.

6. Comparative Analysis with International Juvenile Justice Frameworks

India's juvenile justice system has evolved in alignment with international standards, particularly the Beijing Rules and the

UNCRC. However, the introduction of laws that allow for juveniles to be tried as adults raises concerns about compliance with international norms, which emphasize the need for a separate system for juveniles.

Countries like the United States and the United Kingdom have also faced similar debates. In the U.S., several states allow juveniles to be tried as adults for serious crimes, while in the U.K., the Youth Justice System focuses on rehabilitation but does not shy away from imposing harsh penalties for serious offenses. India's approach mirrors these international trends but also reflects unique challenges related to its socio-economic context.

7. Conclusion

The juvenile justice system in India is at a crossroads, with the introduction of new criminal laws pushing it toward a more punitive framework for serious juvenile offenders. While these laws address legitimate public concerns about the rise in heinous crimes committed by juveniles, they also risk undermining the foundational principles of juvenile justice, which emphasize reform and rehabilitation.

Recent case laws, such as *Shilpa Mittal* and *Salil Bali*, underscore the need for a balanced approach that respects the rights of juveniles while addressing public concerns about accountability. Moving forward, it is crucial for policymakers to strike a balance between ensuring justice for victims and providing juveniles with the opportunity to reform. Strengthening rehabilitation programs, improving mental health assessments, and ensuring that juveniles have access to legal representation are essential steps in ensuring that the juvenile justice system remains true to its reformatory goals.

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