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## JUVENILE LAWS: A GLOBAL PERSPECTIVE

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### Abstract

*This research paper offers a comparative review of international viewpoints on juvenile legislation, concentrating on how various nations approach the handling of juvenile offenders and their legal rights. The nations are Australia, Canada, England and Wales, Hong Kong, Hungary, Italy, Japan, the Netherlands, Russia, and the Federal Republic of Germany. This study investigates the similarities, disparities, and changing patterns in juvenile justice systems by looking at a variety of nations from diverse regions, including both developed and developing countries. An introduction gives a general overview of the pertinent concerns. Important factors include the criminal responsibility age, alternative sentencing schemes, sentencing alternatives, rehabilitation possibilities, and the harmony between punishment and welfare. The discussion also mentions how each nation's definition of what makes a juvenile or young offender reflects its unique cultural, historical, political, and social characteristics, which can make national comparisons difficult. Additionally, the care of juveniles can be explained using any one of the following six models. The models are not mutually exclusive, the differences between certain nations are not as stark as their titles might suggest, and nations like Australia and Canada have various models depending on the jurisdiction in which they are used. The participative model is used in Japan. The welfare model is utilised in Australia and the Netherlands. The corporation model is used in Wales, England, and Hong Kong. The modified justice model is used in Canada. The justice model is used in Russia, the Netherlands, and Italy. The crime control model is used in the US and Hungary. It also discusses the difficulties and opportunities involved in putting into practice effective juvenile justice policies that put the needs of young offenders and society at large first.*

**Keywords:** delinquency, rights, justice, Juvenile-offender, age

### Introduction

Law enforcement and prison officials are re-evaluating theories and penalties related to minors in the field of juvenile justice. Children used to be treated as property and had no legal rights. The administration of juvenile justice, v UN agencies. Adopting several Conventions, Declarations, recommendations, general comments, guidelines, and standards is one of them. The same has received support from both governments and non-governmental organisations. All parts of the world can benefit greatly and practically from these standard-setting procedures. Some of these standards

are legally binding, which makes compliance with them mandatory. Others have persuasive power and can significantly affect and mould how laws and regulations are made in the nation.

Cultural and historical penalties have changed as a result of global community norms and the United Nations' idea of appropriate juvenile justice. For instance, the United States ratified the 1989 United Nations Convention on the Rights of the Child Treaty, which ruled that anyone under the age of 18 cannot be executed by a court of law. In contrast, the age of responsibility was set at seven for males and



nine for women by the Code of Hammurabi, Hindu law, and English common law, respectively. As more nations join the global community, their approaches to juvenile justice change from their historical laws to the idea of cognitive development. At 10, a child may be transported to an adult prison, and juveniles lacked the right to legal representation.

### **JUVENILE JUSTICE WORLDWIDE AND AVAILABILITY IN THE LEGISLATURE**

To reduce juvenile crime rates and safeguard the rights of these young offenders every country in the world has legislation in place. India considers everyone under the age of 18 to be a juvenile, whilst Japan and Taiwan consider anyone under the age of 20 to be a juvenile. As a result, the severity of the juvenile's crime and the laws in force in the relevant nations are taken into account when carrying out punishments and trials. The juvenile age might vary from one country to another.

Juvenile Laws in the United States of America:

The juvenile justice system in the United States, which is composed of state and local government bodies and is administered by the federal system in accordance with the power of the United States Constitution, gives the police jurisdiction. In the United States, everyone under the age of 18 is referred to as a juvenile. The police have the authority to either discipline the young person who committed the offence or take them into custody. Both are also within the police's purview. The long-standing juvenile justice system in the US has experienced significant alterations recently. The American courts have started to treat more children as adults than ever before as they transition from a model of rehabilitative goals to a far more punitive approach.

The advantage of this development is that adolescents now have access to constitutional rights that were previously only available to adults in the criminal justice system. The drawback of this trend is that very young kids are being dealt with in a system that is not fit for

that purpose; it was created to administer punitive justice rather than focusing on youth's promise and developmental growth. It is not at all obvious whether this movement will continue to be a constant part of the juvenile justice system in the United States. If crime rates decline, pressure will increase to focus on the traditional juvenile justice system's more rehabilitative—and possibly more cost-effective—aspects. However, the departure from the conventional strategy is now evident.

Juvenile Justice System in India:

In order to provide care and protection for young offenders in the country, the Juvenile Justice (Care and Protection for Children) Act was introduced in 2000. A juvenile in India is a person who committed a crime before becoming 18 years old. In the years 2006 and 2011, this Act had two changes. But in 2015, following the Nirbhaya Case, in which a young person was accused of rape would be 18 in six months, reforms had to be taken to close legal loopholes. Consequently, Juvenile Justice Care and Protection, 2015 was created to replace the Act. In addition to providing children with necessary care in children's homes and rehabilitation centres as well as protection, development, and treatment of children, the justice system established specific courts for juvenile offenders.

Juvenile Justice System in China:

The Chinese government has made reforms to the juvenile justice system one of its key goals. People under the age of 18 are considered juveniles in China. 2011 saw the addition of a section to the criminal code of law which is related to juveniles. The primary goal of the justice system is to educate young offenders and impart ideals for leading better lives. For young criminals, there are both incarceration and non-incarceration options available. 2011 saw the endorsement of suspended sentences for young people who committed minor offences.

United Kingdom:



The juvenile justice system in the United Kingdom was formed in 1908 with the creation of juvenile courts. Under the Children Act of 1908, these courts were committed to upholding the rights of juvenile offenders and ensuring their welfare by giving them the required education and care. Under the 1933 Children and Young Offenders Act, juveniles who committed crimes were tried in juvenile courts. Under the Criminal Justice Act of 1948, juvenile criminals were transported to training facilities for rehabilitation and were given security in detention houses.

#### Africa:

On the whole African continent, unemployment, malnutrition, and poverty are the main causes of delinquency. These issues arise from the marginalisation of young people in the already extremely underprivileged sections of society. Africa has rapidly increased, and the population appears to be increasing younger over time. In addition, just a small number of new employees are being created in Africa, which has led to half of all families living in poverty. Many urban poor people reside in unsanitary dwellings in slum and squatter colonies. A large number of street and orphaned children, whose numbers have been rising as a result of ongoing and numerous violent conflicts, the emergence of HIV/AIDS, and the dissolution of traditional tribal culture and family effect on children, is one of the most critical issues. The most common juvenile offences include theft, robbery, smuggling, prostitution, drug misuse, and trafficking in illegal drugs. Juvenile criminality is on the rise.

#### Italy:

According to Article 98 Subsection 1 of the Italian Penal Code, a person who committed a crime when over the age of 14 but under the age of 18 and who was "capable of understanding and willing" must be punished, albeit the sentence may be lightened. The presiding judge, in any case, involving a person between the ages of 14 and 18 must clearly

determine the person's capacity for understanding and forming mental intent. The penal code provides that the orders and sentences applicable to adults may also be applied to children with great freedom and reductions with regard to the judgements that the court can make. The young person may be detained in a judicial reformatory if it is determined that they are likely to commit another crime.

#### Canada:

The YCJA (Youth Criminal Justice Act) regulates how criminal and correctional legislation is applied to people who are 12 years old or older but under the age of 18 when they commit an offence. Under the latter provisions of the Act, minors between the ages of 14 and 17 be tried and/or sentenced as adults, depending on the circumstances. All trials under the Youth Criminal Justice Act will take place in juvenile courts, however for some offences and under certain circumstances, a juvenile may get an adult punishment.

#### Germany:

Only a small percentage of juvenile offenders are sentenced to prison; in 2009, only 2,076 juvenile offenders were given the unsuspended young penalty. In Germany, the unrestricted youth penalty entails high-security prison time of 6 months to 5 years or 10 years in extraordinary circumstances. The maximum term for minors is five years, and the minimum sentence is six months for individuals between the ages of 14 and 17. In cases of particularly heinous crimes for which adults could get terms of more than ten years, the maximum period of child imprisonment is ten years. If a young adult between the ages of 18 and 20 is found guilty under the JJA, the maximum sentence is ten years. Either the nature of the offence (such as murder, aggravated robbery, etc.) or the offender's risky inclinations that are likely to make community penalties ineffective are requirements for child detention.



Pakistan:

If a kid under the age of fifteen is detained or arrested for a crime that carries a sentence of fewer than 10 years in jail, he or she must be treated as though they have charged them with a crime that is subject to bail. No kid under the age of fifteen may be detained without a warrant under any preventive detention statutes or under Chapter VIII of the Criminal Procedure Code.

The court may refuse to grant bail when a child of fifteen years or older is detained if there are good reasons to believe that the child is involved in a crime that the court deems to be serious, heinous, gruesome, brutal, sensational in nature, or shocking to public morality, or if the child has previously been convicted of a crime that is punishable by death or life in prison.

There are certain basic observations that may be made about the administration of juvenile justice notwithstanding the variations in specific difficulties among areas. There is still a lack of full implementation in practice even though the majority of nations have made commitments theoretically to a complete juvenile justice system, with many states having special juvenile offender laws.

**The following are some of the international covenants dealing with the International juvenile system:**

"5. Sentence of death shall not be imposed for crimes committed by persons under the age of eighteen and shall not be carried out on pregnant women" declares the International Covenant on Civil and Political Rights of 1966. The Beijing Rules, also known as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, were approved on November 29, 1985, with the intention of safeguarding children's welfare. The Havana Rules, also known as the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, set the guidelines for how the juvenile justice system should be run. Children are protected by having their rights upheld

under the 1989 United Nations Convention on the Rights of the Child (CRC).

The Riyadh recommendations, sometimes known as the United Nations Recommendations for the Prevention of Juvenile Delinquency, are a set of rules for preventing juvenile delinquency. The Vienna Rules, also known as the United Nations Rules for Action on Children in the Criminal Justice System, were adopted in 1997 for the protection of children and were directed not just at governments but also at nongovernmental organisations (NGOs) and the media. In order to promote juvenile justice globally and address issues linked to juvenile delinquency and justice, the International Juvenile Justice Observatory was established in Brussels in 2002.

As a result, the above-mentioned international instruments have taken sufficient steps to ensure the protection and welfare of children, and they oblige the governments to pass legislation that complies with their suggestions and policies.

### Case Laws

Roper v. Simmons (United States, 2005)

The issue of this case was Whether the execution of a person who was 17 years old when he committed murder is prohibited under the Eighth and Fourteenth Amendments because it would be "cruel and unusual" punishment. The U.S. Supreme Court held that execution of juvenile offenders who committed crimes while younger than 18 is "cruel and unusual punishment" that is forbidden by the Eighth Amendment in a 5-4 decision written by Justice Anthony Kennedy in March 2005. A number of the APA's reasons were used by the majority decision in support of its finding. Justice Scalia said in his dissent, which supported the death penalty for minors, that research presented by APA in a 1989 case addressing parental consent statutes was incompatible with APA's stance in Simmons. In



response to Justice Scalia's remarks, an APA briefing was made public in March.<sup>23</sup>

Thompson v. Oklahoma (United States, 1988)

Since the United States repealed its ban on the death penalty, *Thompson v. Oklahoma*, 487 U.S. 815 (1988), was the first case in which the U.S. Supreme Court overturned a minor's death sentence on the grounds that it was "cruel and unusual punishment." In *Roper v. Simmons* (2005), the Supreme Court extended the "evolving standards" justification to anyone under the age of 18, building on the ruling in *Thompson*. The Eighth Amendment's prohibition on "cruel and unusual punishments" applies to the states via the Fourteenth Amendment, the Court noted, and concluded that the execution of a person under the age of 16 was unlawful. The Court highlighted that doing so would violate "evolving standards of decency that mark the progress of a maturing society" and pointed out that all relevant state regulations ban the execution of anybody under the age of 16. Reversal and remand of the case were made.<sup>24</sup>

D.G. v. Ireland (1997)

The European Court of Human Rights (ECtHR) rendered a significant decision in the D.G. v. Ireland case in 1997. In the case, an Irish lady by the name of D.G. requested an injunction to stop the publication of a book about her experiences as an incest victim. According to D.G., the book's release would infringe upon her right to privacy, which is protected by Article 8 of the European Convention on Human Rights (ECHR). She asserted that if her identity and personal information were revealed without her permission, it would cause her great anguish and injury.

The Irish courts first rejected D.G.'s suit, holding that the author had a right to free speech and that the publication of the book was in the public interest. D.G. then petitioned the ECtHR on

her behalf. In its ruling, the ECtHR stated that while freedom of expression is a crucial right, it is not an unqualified one that should be prioritised over the privacy rights of individuals. The court emphasised the significance of safeguarding the physical and mental integrity of those who have been the victims of terrible crimes like incest.

The ECtHR determined that Ireland had not fairly balanced the conflicting rights in this matter. It was decided that the injury and anguish that D.G. would experience due to the book's release had not been considered enough by the Irish courts. In accordance with Article 8 of the ECHR, the court found that Ireland had breached D.G.'s right to respect for her private life.

The D.G. v. Ireland ruling upheld the fundamental idea that, in some situations, the right to privacy can take precedence over the right to free expression, particularly when it comes to safeguarding the interests and welfare of people who have suffered substantial harm or trauma.<sup>25</sup>

X and Y v. the Netherlands (1985)

A significant case resolved by the European Court of Human Rights (ECtHR) in 1985 is X and Y v. the Netherlands. Two transgender people, X and Y, were involved in the lawsuit and fought for legal acknowledgement of their gender identity. At the time, sterilisation was a requirement under Dutch legislation for transgender people who wanted to change their official gender. According to X and Y, this demand violated their right to respect their private lives, which is protected by Article 8 of the European Convention on Human Rights. The ECtHR determined that X and Y's rights were violated by the sterilisation requirement. The court emphasised how important a person's gender identification is to their sense of self and autonomy.

The ECtHR determined that the forced sterilisation requirement was excessive and

<sup>23</sup> Donald P. Roper, Superintendent, Potosi Correctional Center, Petitioner v. Christopher Simmons

<sup>24</sup> THOMPSON v. OKLAHOMA, 487 U.S. 815 (1988)

<sup>25</sup> D.G. v. Ireland - 39474/98 (1997)

superfluous because it did not further the cause of legal gender recognition. It amounted to an interference with X and Y's right to privacy and self-determination, the court determined. By stating that transgender people have a right to the legal acknowledgement of their gender identity without being forced to intrusive and pointless restrictions like sterilisation, the decision in X and Y v. the Netherlands established an important precedent. Following this decision, a number of nations amended their legal gender recognition laws and regulations to eliminate the need for sterilisation, recognising the rights and dignity of transgender people.<sup>26</sup>

#### Nirbhaya Case

A terrible act that sparked a movement across the country and resulted in a stricter, more severe penal code.

A young 23-year-old woman and her companion were tricked into boarding a moving bus in South Delhi on the night of December 16, 2012, by five males and a juvenile. This case, which resulted in an extreme yet historic judgement, emerged as one of the most significant in the discussion surrounding India's rape culture as she endured cruel assault and sexual abuse.

The four men were found guilty by the Supreme Court of rape, murder, unnatural crimes, and evidence destruction; they were subsequently given a 10-year prison term. A bit later, the juvenile is found guilty of murder and gang rape by the Juvenile Justice Board, who then receives a verdict from the fast-track court and is sentenced to three years in a juvenile detention facility.

As the entire trial process in this case was covered by the media and watched by the entire country, it cleared the path for the Criminal Act, 2013, which requires the Verma committee to reach a more expeditious form of justice, to be amended. Additionally, it

highlighted new areas like sexual harassment and acid assaults in the Constitution and brought about significant modifications to the definitions of rape, gang rape, voyeurism, and other terms.

This case resulted in an important legal ruling and the replacement of India's Juvenile Justice Act, 2000, which stated that the age for adult trials will be decreased from 18 to 16 years for the most egregious offences.<sup>27</sup>

Hari Ram v. State of Rajasthan & Anr. [2009 SCC 13 211]

The Juvenile Justice Act of 1986 set a maximum age of 16 for male minors to be classified as juveniles. However, children up to the age of 18 are treated as juveniles under the Juvenile Justice (Care and Protection of Children) Act, 2000 ("JJ Act, 2000"). Therefore, the main question on the court's agenda, in this case, was whether the JJ Act of 2000 applies to crimes that were committed prior to its implementation. According to the court, it is evident from a joint reading of Sections 2(k), 2(l), 7A, 20, and 49 that all individuals who were under the age of 18 on the date of the offence, even before the JJ Act of 2000 went into effect, would be classified as juveniles. It wouldn't matter if the accusation of juvenility was brought up after the accused turned 18 years old.<sup>28</sup>

Jitendra Singh @ Babboo Singh & Anr. v. State of U.P. [Criminal Appeal No. 763 of 2003]

In this instance, the court decided that anyone asserting they were a minor on the day of the offence should do so as soon as possible before the Trial Court or the High Court. However, if for some reason no such claim is made, it does not prevent someone from bringing such claim before the Supreme Court. The JJ Act is a helpful piece of legislation, and a technical defence (such as a delay in filing a juvenility claim) would not prevent someone from filing a claim under the Act. However, it is the individual

<sup>26</sup> X and Y v. the Netherlands (1985)

<sup>27</sup> Mukesh & Anr vs State For Nct Of Delhi & Ors on 5 May, 2017

<sup>28</sup> Hari Ram v. State of Rajasthan & Anr. [2009 SCC 13 211]



making the allegation who has the burden of proof to establish a prima facie case for requesting an investigation into the claim of juvenility.<sup>29</sup>

Jarnail Singh v. State of Haryana [Criminal Appeal no. 1209 of 2010] In this instance, the court decided that Rule 12 of the Juvenile Justice (Care & Protection of Children) Rules, 2007 must be consulted in order to determine a minor's age. Additionally, it was noted that even if the method outlined in the aforementioned rule is only intended to establish the age of a kid who has broken the law, it can also be used to establish the age of a child who has been the victim of crime.<sup>30</sup>

### **An analysis of the data on juvenile delinquency in India**

In India, juvenile delinquency is a complicated problem, and because there aren't many effective data collection methods, getting accurate statistics on the subject can be difficult. On the other hand, certain government and unknown sources offer statistical information on child delinquency in India. The following are some pertinent figures on adolescent crime in India:

Data from the National Crime Records Bureau (NCRB) of India, 35,190 incidences of crimes committed by minors were recorded there in 2019, making up 1.03% of all reported crimes. In comparison to the prior year, this represents a 4.4% drop in the number of cases.

Burglary (16.2%), theft (23.2%), injury (19.7%), and accounted for the bulk of minor offences in 2019. The percentage of crimes against women was 8.9% in all instances.

According to NCRB data, the majority of young offenders are male (88.7%) and between the ages of 16 and 18 (67.7%). Only 2.2% of juvenile offenders were less than 12 years old.

According to the NCRB data, Uttar Pradesh (19.1%) had the highest percentage of juvenile

offenders Maharashtra and Madhya Pradesh came next, with 11.3% and 11.7% of the total.

Data gathered by the Child Rights and You (CRY) organisation show that the number of young people in legal trouble has been rising over time. In India, there were 2,82,171 minors who had legal encounters in 2017–18 as opposed to 2,06,223 in 2015–16.

According to a study, some of the major factors contributing to adolescent delinquency in India are poverty, illiteracy, interpersonal pressure, and familial issues.

Even though there are few statistics on adolescent delinquency in India, the information that is available indicates that it is a serious issue there. Reducing the incidence of adolescent delinquency may be made possible by addressing its underlying causes through family support, education, and other treatments.

### **Summary**

When examining juvenile delinquency around the world, it is clear that juvenile misbehaviour is a common phenomenon across the entire human race. It appears that delinquency is common and that crime dynamics are rather consistent over the world. Additionally, the factors that contribute to teenage crime have a lot in common. Whether the child is exposed to abuse, neglect, dysfunctional family lifestyles, conditions of poverty and hardship, urbanisation, social messaging that are pro-criminal, or media influences that support an abnormal youth subculture, the reasons seem to be the same everywhere. Youth from modernised areas with a rise in family instability are more prone to acting out. Other young people who come from war-torn nations or extremely unstable areas run the danger of engaging in delinquent behaviour, often as a method of surviving. It appears that youth experience severe victimisation, which paves the way for their own propensity to victimise others in the future.

<sup>29</sup> Jitendra Singh & Anr. v. State of U.P. [Criminal Appeal No. 763 of 2003]

<sup>30</sup> Jarnail Singh v. State of Haryana [Criminal Appeal no. 1209 of 2010]



To defend the rights of young offenders, officials should critically evaluate the care and protection provided by juvenile justice. Despite the fact that every country in the world has legislation addressing juvenile justice care, its implementation is not given considerable consideration. Young offenders are not taken to appropriate training and protection camps to shape their behaviour after being apprehended for a crime. Few nations sentence juvenile criminals to the same punishments as adults, which violates their fundamental rights. In some countries, juvenile justice laws merely exist on paper and are not actually put into practice.

As a result, young offenders need to be properly protected and cared for, including receiving the appropriate instruction, education, care, protection, and shelter. Young criminals should receive reformatory sentences rather than punitive sentences from the courts. International agreements should be given more authority to uphold these juvenile offenders' rights and bring them to justice. Officers and judges with knowledge related to juveniles and training to handle a child's psychology should be employed, as we observe that many countries lack officials who can give justice to young criminals. There should be more shelter houses, remand homes, schools, and training facilities for young offenders. Hiring qualified officials who are well-trained and familiar with child psychology is important. Most countries' current juvenile laws do not have much influence, which prevents them from producing positive results. Therefore, stricter regulations should be created and followed in order to fulfil the goal of providing care and protection for young offenders. Therefore, the protection and care provided by juvenile justice should be treated with the same seriousness as other judicial actions.

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