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CRITICALLY ANALYSING LEGAL RIGHT OF JUVENILE IN POLICE INTERROGATION

Sonam Kumari Sharma

AILS, Amity University Noida

LLM (Criminal law)

ABSTRACT

Ensuring a justice system that is child-friendly, fair, dignified and emphasizing rehabilitation rather than punishment, is securing the legal rights of juveniles during police interrogation. This dissertation provides an in-depth analysis of the statutory, constitutional, and international safeguards associated with police questioning of juveniles, the juncture in the juvenile justice process recognized as critical in impact. This is especially so given the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015¹ — the law under which the juveniles were charged — and its child-centric approaches such as rehabilitation over punishment, the principle of *doli incapax*, and the prohibition of coercive practices. The paper further examines protections provided by the constitution under Articles 21 and 22², in addition to international obligations, such as the United Nations Convention on the Rights of the Child (UNCRC) and the Beijing Rules³ that prescribe the minimum global standards for juvenile interrogations.

Through years of extensive research, using primary sources - statutes, case laws, and international conventions - the study reveals significant procedural inadequacies and systemic obstacles hindering the rights of juveniles under police interrogation⁴. These include custodial abuse, the unavailability of trained personnel, and lack of legal representation or guardianship of the accused during questioning. Judicial interpretation of juvenile rights as articulated in the

¹ Pawan Kumar & Ranjit Singh, *Juvenile Justice (Care and Protection of Children Act) 2015: A Critique*, 5 J. Global Res. & Analysis 113 (2016).

² Article 21 and 22, the Constitution of India.

³ Louise Forde, *Compliance with International Children's Rights in the Youth Justice System*, (2022).

⁴ Barry C. Feld, *Police Interrogation of Juveniles: An Empirical Study of Policy and Practice*, 97 J. Crim. L. & Criminology 219 (2006).

judgments is explored to highlight the need for procedural safeguards like mandatory presence of guardians or legal counsel and the omission of confessions made under duress.

Drawing comparison with other jurisdictions such as the United States and the United Kingdom that can serve as reference points in the study of effective procedural safeguards, interrogation methods are marked out for treatment in the dissertation. It warns, however, against their ready adaptation to India's socio-cultural and economic milieu. To mitigate such issues, the study suggests far-reaching reforms such as (a) mandatory training of police officers on developmental psychology of children as well as protocols on interrogating children⁵, (b) setting-up of specialized units for interrogation of juveniles, and (c) greater role of Child Welfare Committees and Juvenile Justice Boards in conducting oversight over police practices⁶.

This study further explores how these vulnerabilities are compounded by socio-economic factors like poverty, lack of education, and social stigma, particularly among minorities and other vulnerable groups in society who become suspects in criminal cases. It underscores the need for systemic reforms and community-based initiatives which would ensure juvenile offenders are treated with care and compassion at all stages of the legal process. Their study, combining legal scrutiny, judicial pronouncements and policy endorsements, serves to augment a thriving, juvenile sensitive, justice mechanism, which protects the rights of minors during police questioning and further.

INTRODUCTION

However, the juvenile justice system is an essential aspect of every fair and rehabilitative society that serves and protects our nation's most defenseless members — our children. Police interrogation is one of the most decisive and sensitive phases among the multitude of problems encountered by minors in conflict with the law. At this point, it is juveniles — who don't know their rights, are ill-prepared to navigate the legal system — who are most susceptible to

⁵ Lindsay C. Malloy, Michael E. Lamb & Carmit Katz, *Children and the Law: Examples of Applied Developmental Psychology in Action*, in *Developmental Science* 653-694 (Psychology Press, 2010).

⁶ Denise Herz et al., *Addressing the Needs of Multi-System Youth: Strengthening the Connection Between Child Welfare and Juvenile Justice*, Center for Juvenile Justice Reform 1-69 (2012).

exploitation, coercion and psychological harm. This requires us to critically assess the legal protections available to preserve juveniles in the event they are confronted by the police.⁷

The models mentioned above have their own merits to capitalize and incorporate but actually, the Juvenile Justice (Care and Protection of Children) Act, 2015 in India paved a significant way towards how juvenile delinquency could be addressed through positive approach replacing the punitive measure against such offenders. Provisions which prohibit coercive practices and acknowledge the principle of *doli incapax* (when a child does not yet have the capacity to commit a crime because of their development) will represent a keystone to a child-friendly system. Moreover, Articles 21 and 22 of the Constitution⁸ provide that juvenile have the right to life and liberty and that they are entitled to counsel during interrogation and detention, thus adding to safeguards. These laws are alongside diverse international frameworks, which establish global standards for the humane and equitable treatment of children in the justice system — including, for example, the United Nations Convention on the Rights of the Child (UNCRC) and the Beijing Rules.

JUVENILE DELINQUENCY

One of the many facets of the issue of juvenile delinquency, which includes a variety of other factors, is conduct. Children are not an exception to the rule that every person, including themselves, has their own distinct set of behavioural patterns. This rule applies to everyone, even children. It is very challenging to distinguish any kind of behaviour in the early stages of growth, which is when trends of conduct are generated during initial childhood.⁹ This is because the early stages of development take place during a period of rapid brain growth. This is due to the fact that the period of early infancy is when development occurs at its most rapid speed. But as soon as a child matures and encounters the outside world, their patterns of conduct have a tendency to change on a regular basis, and a broad range of circumstances have the ability to give rise to criminal activity in them.

⁷ Thomas J. Bernard & Megan C. Kurlychek, *The Cycle of Juvenile Justice* (Oxford Univ. Press, 2010).

⁸ Supra Note 2.

⁹ Mortillaro LF and Carmany JP, “Service Accountability Model for the Juvenile Justice System” (2009) 26 Juvenile Justice 35 <<http://dx.doi.org/10.1111/j.1755-6988.1975.tb01085.x>>

DEALING WITH JUVENILE DELIQUENCY

When it comes to the commission of violent crimes, children and teenagers continue to make headlines all around the globe. This particular subset of adolescents' history of criminal behavior may be explained by a number of different factors. It is necessary, however, to place an emphasis on the most effective strategy that may help bring down the rate of delinquency among juveniles. According to the findings and recommendations of psychologists, the most effective strategy for intervening to avoid such occurrences must begin with providing the required aid to the specific children and their individual families as soon as feasible. Education is often recognized as one of the most effective methods of intervention. Education is important because it offers appropriate knowledge to children and their families about the impacts of drugs, weapons, sex, and other associated peer pressure misbehaviors. This makes education one of the most important aspects of society. Teenagers' consciousness is raised via education, which subsequently enables them to comprehend the consequences of the decisions they make in life. The majority of educational programmes are designed to foster an optimistic outlook on life while also introducing students to new opportunities.

Recreational activities are also highly recommended by specialists as an additional great method of combating delinquency in young people. After a long day of school, many adolescents find instant gratification in participating in leisure activities since these pursuits provide them with a sense of independence. The majority of leisure activities also provide the teenager with the opportunity to interact with other young people and adults in the community. It results in the formation of healthy friendships, which may come in handy not only in the present but also in the future when it comes to preventing adolescents from engaging in criminal behaviour. The abilities and interests of adolescents should be taken into consideration while selecting appropriate forms of leisure for them. This is essential because, in the long run, it makes it possible for them to participate in activities of this kind rather than being involved in criminal activity.

JUVENILE JUSTICE ACT: AN OVERVIEW

A 'juvenile' or a 'child' refers to a person who is yet to complete eighteen years of age. As per the definition given by **Juvenile Justice Act, 2000** under **section 2(k)**¹⁰, a boy or a girl under

¹⁰ Section 2(k), JJ Act, 2000.

18 years of age is a juvenile. The first contact that an immature juvenile delinquent has with the juvenile justice system is with a police official. The nature and state of affairs of this police contact are likely to be noteworthy and have a long-lasting inkling on a young person. The problematic nature of dealings between police and young people has time and again been highlighted in the research works. Interactions between police and young people are often characterized by disagreement and stress, with high levels of annoyance, fear and mistrust on both sides.

While girls have historically made up a small percentage of the juvenile justice population, offending by girls is on the rise. Not only is the overall number of juvenile delinquency cases for non-violent crimes on the rise, but girls are also accounting for a larger proportion of the delinquency pie than they did during the 1980s.

Those working in the field of children had campaigned to increase the age of boy juveniles to bring it on par with girl juveniles. The age of a boy juvenile has been increased to 18 years by JJA 2000 mainly to bring juvenile legislation into conformity with the Convention on Rights of Children which the Government of India had ratified on 11th December 1992. **Section 83** of IPC states that ‘Nothing is an offense which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion’.

ROLE OF THE POLICE¹¹

It is principally the police who arrests the juvenile and produces him before the Juvenile Justice Board. It is seldom, that a juvenile is produced by a non-public party or voluntary organization. Hence, a juvenile’s first contact with the juvenile justice system is through the police. A non-public party or voluntary organization producing a juvenile before the Juvenile Justice Board ought to preferably inform the police regarding such production. Pending production before Board, the juvenile is to be kept within the Observation Home. Under no scenario should a juvenile be kept within the police lock-up or jail. The SJPU or juvenile welfare officer should inform the parent or guardian or any other person of the juvenile’s choice regarding the juvenile’s apprehension. It is the police who investigates a juvenile case, and submits the

¹¹ Donald J. Black & Albert J. Reiss Jr., *Police Control of Juveniles*, Am. Social. Rev. 63-77 (1970).

charge-sheet before the competent authority and also on completion of inquiry, accompany the juvenile to the Special Home, or to his place of residence when below eighteen years of age. The dispensing of distinct treatment to juveniles as supposed under juvenile legislation is defeated if the police treat juveniles in the same manner as they treat hardened offenders. So the Statement of Objects and Reasons of JJA 2000 embody 'creating special juvenile police units with a humane approach through sensitization and training of police personnel'. Consequently, JJA 2000 envisages the setting-up of the SJPU in each district and town, and also the designation of a minimum of one police officer hooked up to a police headquarters as "the juvenile or the child welfare officer".

JJA 2000 provides the police the authority to immediately on apprehension release a juvenile on bail. The same provision was contained in JJA 1986 and BCA 1948. However, the police, but insignificant the crime speculated to have been committed, do not release a juvenile on bail as they would, an adult, alleged to have committed a bailable offense. This can be the right practice. In the case of a juvenile it is not the offense that determines whether or not he ought to be discharged on bail or not, but the juvenile's situation, which can solely be determined by a body having the requisite experience and assistance. Moreover, the police's call to grant bail is also based on extraneous reasons, and lead to capriciousness.

A juvenile's behavior and attitude make a difference in a police officer's use of discretion. A youth who is polite and respectful is more probable to induce off with a reprimand, whereas a negative and hostile perspective is probably going to lead to a court referral. The welfare of the juvenile is the principle on which all juvenile systems are based.

Special juvenile police unit¹² includes the law enforcement officials who oftentimes or exclusively manage juveniles or are primarily engaged within the prevention of juvenile crime or handling of the juveniles or youngsters under this Act to perform their functions more effectively; they shall be specially tutored and trained. In every police headquarters, a minimum of one officer with the ability and appropriate training and orientation is also designated as the 'juvenile or the child welfare officer' who can handle the juvenile or the child in coordination with the police. Special juvenile police unit, of which all the law enforcement officials designated as above, to handle juveniles or youngsters will be members, may be created in each

¹² Vishrut Kansal, *Special Juvenile Police Unit*, 27 Nat'l L. Sch. India Rev. 102 (2015).

district and town to coordinate and to upgrade the police treatment of the juveniles and the children.

INTERACTION OF THE POLICE WITH THE JUVENILE OFFENDERS

The first contact that an immature juvenile delinquent has with the juvenile justice system is with a police official. The nature and state of affairs of this police contact are likely to be noteworthy and have a long-lasting inkling on a young person. Children and juveniles are involved in a wide range of law violations ranging from status offenses to more grave offending and present unique challenges for the policing function. For juveniles, the police role is said to be especially significant, as a young person's view and outlook toward law enforcement are shaped by their first encounter with a police officer.¹³

Juvenile offenders are involved in a strangely hefty number of crimes relative to their fraction of the population, so they present a special challenge for law enforcement. The role of police with juveniles is lengthened because they handle many noncriminal issues referred to as status offenses, including running away, curfew violations, and truancy as well as nondelinquent juvenile matters such as neglect, abuse, and missing persons reports. Most metropolitan police departments have special police units or juvenile bureaus for handling the growing number of juvenile cases. The job of special juvenile officers includes taking missing children reports; probing runaway cases; investigating juvenile crimes; contacting and interviewing juveniles, their parents, school officials, and complainants regarding the situation of an offense; maintaining juvenile records, and appearing in juvenile court.

INDIAN LEGAL FRAMEWORK ON JUVENILE POLICE INTERROGATIONS

The BNS, 2023, has introduced modifications affecting juvenile justice:

- **Section 21 (Equivalent to IPC Section 82):** Grants **absolute immunity** to children under **7 years** from criminal liability.

¹³ Piliavin, Irving, and Scott Briar, "Police Encounters with Juveniles", *American Journal of Sociology*, Vol. 70, No. 2, (1964), pp. 206-214.

- **Section 22 (Equivalent to IPC Section 83):** Establishes **presumptive immunity** for children between **7-12 years**, unless proven that the child could understand the consequences of their actions.
- **Section 23:** Modifies procedures for juvenile trials, ensuring they remain child-friendly and rehabilitation-focused.

BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

The **Bharatiya Nagarik Suraksha Sanhita, 2023** (BNSS) is a legislative reform aimed at overhauling India's criminal procedure laws, replacing the colonial-era Code of Criminal Procedure (CrPC) of 1973. Enacted on December 25, 2023, the BNSS seeks to modernize the criminal justice system by addressing issues such as procedural delays, case backlogs, and low conviction rates. It emphasizes the use of technology and forensic science to enhance investigative processes.

In the context of juvenile justice, the BNSS outlines specific roles and responsibilities for the police to ensure the protection and proper handling of minors within the legal framework. The BNSS, 2023, redefines procedural aspects in handling juvenile cases:

- **Juvenile Trials Must Follow Special Procedures:** Ensuring fair hearing, psychological evaluation, and privacy protection.
- **Restrictions on Detention & Arrest (BNSS Sections 10 & 11):** Law enforcement officers cannot detain or arrest a juvenile except in extreme circumstances, and even then, procedures must be humane.
- **Recording of Statements:** Juvenile statements must be taken in the presence of a **Child Welfare Officer**, ensuring no coercion or undue influence.

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

Police plays a substantial role in the juvenile justice system be it vis a vis the child in need of care and protection (CNCP) or the child in conflict with law (CICL). How it plays this role i.e., by taking the child along, in his best interest or considering him as any regular criminal or a victim depends on their level of sensitivity and commitment. In almost all the cases of CNCP as well as CICL, the police are usually the first point of contact with the child. This is indeed

an important role as it means that the police officer, invariably the first contact point, now determines whether the child becomes the part of the juvenile justice system to begin with or not. And what kind of intervention the officer is going to make in the situation vis a vis the child often determines the future of this child. The JJ Act and the modal rules lays specific duties for the police especially special juvenile police units (SJPU) vis a vis children such as to upgrade the police treatment of all juveniles and the children (Section 63), to coordinate and function as a watch dog for providing legal protection against all kinds of cruelty, abuse and exploitation of child or juvenile (rule 84(5)), to take serious cognizance of adult perpetrators of crimes against children and to see to it that they are without delay apprehended and booked under the appropriate provisions of the law (rule 84(6)), identifying child in conflict with law(CICL) and child in need of care and protection(CNCP) in association with civil society (rule 84(7)) to name the few.¹⁴

Bachpan Bachao Andolan v. Union of India (2011)¹⁵ – Strengthening Oversight Mechanisms

The Bachpan Bachao Andolan v. Union of India (2011) case was a PIL that exposed the widespread illegal detention, trafficking, and police abuse of juveniles across India. The petitioners highlighted numerous instances where juveniles were denied legal representation, subjected to coercion, and wrongfully detained in police lock-ups.

The Supreme Court's ruling in this case led to major systemic reforms in the handling of juveniles by law enforcement agencies. The court directed that:

1. Every police station must have a Child Welfare Police Officer (CWPO) to ensure that juveniles are handled appropriately.
2. Juveniles must never be interrogated without the presence of a guardian, lawyer, or social worker.
3. Special Juvenile Police Units (SJPU) must be established in every district to oversee cases involving minors.

¹⁴ Kumar, Pawan, and Ranjit Singh, "Juvenile Justice (Care and Protection of Children Act) 2015: A Critique", J. Glob. Res. & Analysis 5 (2016): 113.

¹⁵ Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC 1.

This ruling was a milestone in strengthening police accountability and led to improved oversight mechanisms for ensuring juvenile rights were upheld.

Judicial precedents have played a critical role in shaping juvenile justice policies in India, ensuring that police interrogations of minors adhere to constitutional, statutory, and international human rights standards. Landmark judgments have prohibited custodial torture, mandated legal representation, enforced age determination procedures, and strengthened oversight mechanisms for handling juvenile cases.

CONCLUSION

The interrogation of juveniles by law enforcement authorities is a critical aspect of the juvenile justice system, requiring a delicate balance between ensuring accountability for criminal behavior and protecting the fundamental rights of minors. While India has a well-defined statutory framework, including the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) and constitutional protections under Articles 21 and 22¹⁶, the practical implementation of these laws remains deeply flawed. Juveniles continue to face coercive interrogations, custodial abuse, forced confessions, and denial of legal representation, which contradicts the principles of rehabilitative justice that India's juvenile justice system is built upon.¹⁷

This manuscript has critically examined the legal rights of juveniles during police interrogations, identifying significant gaps in law enforcement practices, judicial oversight, and socio-economic factors that contribute to the systemic failure in protecting juveniles from rights violations. A comparative analysis of international best practices has demonstrated that countries like the United States, the United Kingdom, and Australia have stronger procedural safeguards, such as mandatory legal representation, presence of an appropriate adult, video-recorded interrogations, and specialized juvenile justice units.¹⁸

This chapter consolidates the key findings of the study, examines the challenges in implementing juvenile rights in India, and proposes comprehensive legal, procedural, and

¹⁶ Supra Note 2.

¹⁷ Barry C. Feld, *Police Interrogation of Juveniles: An Empirical Study of Policy and Practice*, 97 J. Crim. L. & Criminol. 219 (2006).

¹⁸ Carol A. Brook et al., *A Comparative Look at Plea Bargaining in Australia, Canada, England, New Zealand, and the United States*, 57 Wm. & Mary L. Rev. 1147 (2015).

institutional reforms to ensure that juvenile interrogations align with constitutional mandates and international human rights standards.

SUGGESTIONS

- **Mandatory Legal Representation:** No juvenile should be interrogated without a lawyer present. A stronger legal aid system should be developed to ensure free legal assistance for all minors in conflict with the law.
- **Implementation of the Appropriate Adult System:** India should adopt the UK's model of requiring a trained guardian, social worker, or legal advocate to be present during all juvenile interrogations.
- **Mandatory Video Recording of Juvenile Interrogations:** To ensure transparency and prevent forced confessions, all police stations should be required to video record juvenile interrogations, with courts only accepting statements made in recorded settings.
- **Specialized Juvenile Justice Police Units:** The government should establish dedicated juvenile police units, staffed with officers trained in child-friendly policing and rehabilitative justice.
- **Stronger Judicial Oversight:** Courts must actively monitor police compliance with juvenile interrogation laws and establish a review mechanism for police procedures.