

The Evolving Landscape of Juvenile Justice: A Comprehensive Examination of Policies, Practices, and Reform Initiatives

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ABSTRACT

The juvenile justice system in India is designed to provide care, protection, and rehabilitation to children in conflict with the law. The system is guided by the Juvenile Justice (Care and Protection of Children) Act, 2015, which aims to create a child-friendly justice system that is in line with the principles of the United Nations Convention on the Rights of the Child. Despite the existence of this legal framework, the efficacy of the juvenile justice system in India has been the subject of much debate. One of the main criticisms of the system is that it is often ineffective in rehabilitating juvenile offenders and preventing them from reoffending.

Despite these challenges, there have also been positive developments in the juvenile justice system in India. For example, the system has started to focus more on restorative justice and diversion programs, which aim to address the root causes of juvenile delinquency and provide support to young people to help them avoid criminal behavior. The Juvenile Justice System is the most dynamic and irradiated framework embraced by the world which deals with all-round development of children. The chief centre is to give consideration to the unprotected children. To the extent practicable, a child is to be rehabilitated and re-established to the family. This project is going to assess the Juvenile Justice System in India in the light of protected reasoning and international parameters along with some of the landmark cases of which the Juvenile Justice Act had to take its course into being defined as an Act of its own. The concept of juvenile justice was derived from a belief that the problems of juvenile delinquency and youth in abnormal situations are not amenable to resolution within the framework of the traditional process of criminal law.

The term 'Juvenile Justice' is used to refer to social as well as juridical justice. India seeks to provide social and juridical justice to the neglected and delinquent children through the use of court, code etc. The Constitution of India recognises the special status of children through Articles 15(3), 24, 39(e), 39 (f), and 45. In India's National Policy made in 1975, it was stated and declared that children are a supremely important national asset. A systematic approach to juvenile justice requires that each of its components has a clear understanding of the objectives of the system and they all take coordinated actions of receiving them.

KEYWORDS

Juvenile Justice, Constitution, Children, rights, Crime, Delinquency, Offenders, Juvenile Justice System

INTRODUCTION

Understanding the present state of the Juvenile Justice System (JJS) in India requires recourse to history. The JJS in India originated during British rule. Before British regime in India, Juveniles were treated by the family and society in general. The institutional treatment of Juvenile was not visibly witnessed. Therefore, JJS and correctional measure was the direct consequence of western philosophy and development of prison reforms. The culture of crimes by youthful offender is as old as the society. Owing to doli incapex and adventurous attitude, the youth often come in conflict with law and indulged in crimes. Gone are those stormy days when the problems of Juvenile were not considered as a separate system. It can be witnessed from the past that, the children were thrown into prison without trial. They were locked in the jail along with hardened criminals. In the nineteenth century penologists prescribed equal punishment for both adult and Juveniles. History reveals that juveniles were hanged, transported and imprisoned like adult criminals. The records reveal that, in 1833, death sentence was passed on nine years of child for stealing goods worth two pence. Hanging, whipping and torture of the pillory were common practices for petty offences. The punishments were commonly made before public as a method of deterrence. Gradually the problem of youth offenders was given separate treatment. Some leading penologists have suggested correctional measures in place of penal measures. India got independence in 1947. It becomes the signatory to UDHR 1948. Being a signatory to the UNO, India has adopted measures as per the international standard. The constitution makes of India provided separate treatment for the children and women. The assumption that reported in social milieu is undertaken to make a strong JJS in India. In this article an attempt is made to analyze the special treatment adopted by India for Juveniles in the light of its constitutional philosophy and the international conventions.

In India, the Juvenile Justice (Care and Protection of Children) Act, 2015, replaced the previous Juvenile Justice Act of 2000. The Act provides a framework for the care, protection, treatment, and rehabilitation of children who are in conflict with the law, as well as children who are in need of care and protection.

The Juvenile Justice system in India is based on the principle of reform and rehabilitation rather than punishment. The system is aimed at providing care and protection to children in need of it and rehabilitating those who have committed an offense. The system aims to ensure that the child's best interests are protected at all times and that their rights are respected. The Act provides for the establishment of Juvenile Justice Boards (JJB) and Child Welfare Committees (CWC) at the district and sub-district levels to deal with cases of children in conflict with the law and children in need of care and protection, respectively. The JJB is responsible for determining the age of the child and whether they have committed an offense, while the CWC is responsible for the care and protection of children who are in need of it. The Act also provides for various forms of rehabilitation and reintegration measures for children in conflict with the law, such as counseling, education, vocational training, and community service. The aim is to ensure that the child is not stigmatized and has the opportunity to reintegrate into society as a responsible citizen. Overall, the Juvenile Justice system in India aims to provide a protective and rehabilitative environment for children in need of care and protection and those in conflict with the law, while also ensuring that their rights and best interests are protected.

LITERATURE REVIEW

"Juvenile Justice System in India: From Welfare to Rights" by Ved Kumari:

- Ved Kumari, a professor of law and an expert in juvenile justice, provides a comprehensive analysis of the juvenile justice system in India. The book explores the legal and policy framework, challenges, and the evolution of the system.

"Juvenile Justice: The Indian Experience" by S. Prakash and M.C. Gupta:

- This book delves into the Indian experience of juvenile justice, covering legal provisions, case law, and the challenges faced by the juvenile justice system. It provides insights into the practical aspects of implementation.

"Children and the Law: Rights and Obligations" by Ved Kumari:

- Ved Kumari's work extends to this book, which covers a broader range of legal issues concerning children, including aspects related to juvenile justice. It provides a comprehensive view of the legal landscape affecting children in India.

"Juvenile Justice System in India: A Comprehensive Study" by Rupa Kapoor:

- Rupa Kapoor's book offers a detailed examination of the juvenile justice system in India, including legislative developments, case studies, and the challenges in ensuring justice for juveniles.

"Children in India: Issues and Challenges" by A.K. Kapoor:

- This book addresses various issues concerning children in India, including those related to juvenile justice. It covers legal aspects, societal challenges, and the rights of children.

"Juvenile Justice in India: Policy, Programme, and Perspective" by Sanjay K. Singh:

- Sanjay K. Singh's work provides insights into the policy and programmatic aspects of the juvenile justice system in India. It explores the perspectives of different stakeholders and examines the challenges in implementation.

RESEARCH METHODOLOGY

Doctrinal. Doctrinal legal research methodology, also called "black letter" methodology, focuses on the letter of the law rather than the law in action. Using this method, a researcher composes a descriptive and detailed analysis of legal rules found in primary sources (cases, statutes, or regulations).

ANALYSIS & DISCUSSIONS

Bharat has a long history of providing separate treatment for a juvenile offender. In the 19th century penologists punished juveniles with equal punishment as adults, before the British regime Juvenile Justice System (JJS) was not institutionalized. Parents or guardians used to treat their children in general. For instance, in 1833, a nine years child was given capital punishment for stealing goods worth two pence.

After 1947, the Republic of India became a signatory of UDHR (Universal Declaration of Human Rights) in 1948. In 1960, the Government of India enacted the Children's Act to provide care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the union territories. This Act was precursor of the Juvenile Justice Act, 1986. The Juvenile Justice Bill, in accordance with the UN Standard Minimum Rules for Administration of Juvenile Justice (commonly known as "Beijing Rules") was first introduced in the Lok

Sabha on 22nd August, 1986, and the Central Children Act, 1960 had already been replaced by the Juvenile Justice Act of 1974. The Law, formulated and tabled in 1986 came into force in all the union territories but the states having no juvenile law were free to adopt the Juvenile Justice Act of 1974 (brought in lieu of Central Children Act 1960). India declared its National Policy for children, which, included inter alia training and rehabilitation of delinquent, destitute, neglected and exploited children. The Juvenile Justice (Care and Protection of Children) Act, 2000, brought in compliance of the Child Rights Convention 1989, further repealed the earlier Juvenile Justice Act of 1986 after India signed and ratified Child Rights Convention 1989 in year 1992. The Act provides a special framework for the protection, treatment and rehabilitation of children in the purview of the Juvenile Justice System. It has established the Child Welfare Committee to address the needs of “children in need of care” and the Juvenile Justice Board to deal with “children in conflict with the law”. Therefore, it deals separately with two categories of children. Juveniles accused of a crime or detained for a crime are brought before the Juvenile Justice Board, not in a regular criminal court, under this Act.

HISTORY OF JUVENILE JUSTICE SYSTEM IN INDIA

The history of the juvenile justice system in India dates back to the colonial era when the British enacted the Apprentices Act of 1850. This act allowed for the apprenticeship of children who were orphaned or whose parents were unable to care for them. The act was amended in 1867 to provide for the protection of child workers and apprentices. In 1891, the Bengal Children Act was enacted, which provided for the establishment of juvenile courts and probation officers. However, the act was limited in scope and only applied to the province of Bengal. After India gained independence in 1947, the Children Act of 1960 was enacted, which provided for the establishment of juvenile courts and probation officers in all states. The act aimed to provide for the care, protection, and rehabilitation of children in conflict with the law. In 1986, the Juvenile Justice Act was enacted, which provided for a comprehensive legal framework for dealing with children in conflict with the law. The act was amended in 2000, and again in 2006, to strengthen the legal provisions for the protection, care, and rehabilitation of children.

In 2015, the Juvenile Justice (Care and Protection of Children) Act was enacted, which repealed the earlier acts and provided for a more child-friendly justice system. The act focuses on the rehabilitation and reintegration of children in conflict with the law, rather than punishment. Today, the juvenile justice system in India is governed by the Juvenile Justice (Care and Protection of Children) Act, 2015, and aims to protect the rights of children and ensure that they receive the care and support they need to lead productive lives.

NEED TO REPLACE THE PREVIOUSLY EXISTING JUVENILE JUSTICE ACT, 2000 WITH THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015 replaced the previous Juvenile Justice Act of 2000 as it was felt that the earlier law did not adequately address the issues of children in conflict with the law and those in need of care and protection. The new law was enacted to bring India's juvenile justice system in line with international standards and to address some of the gaps and challenges that were identified in the implementation of the earlier law. The new law is more comprehensive and includes provisions for the care and protection of children in need, as well as for the rehabilitation and reintegration

of children in conflict with the law. It also recognizes the importance of non-institutional care options and emphasizes the need for confidentiality to protect the privacy of children.

Furthermore, the new law introduced provisions for the expeditious disposal of cases involving children in conflict with the law, with a focus on diversion and rehabilitation rather than punishment. It also recognized the specific needs of children in conflict with the law who are aged between 16-18 years, who were earlier treated as adults under the law. Overall, the Juvenile Justice (Care and Protection of Children) Act, 2015 was enacted to provide a more comprehensive and child-friendly framework for dealing with children in conflict with the law and those in need of care and protection in India.

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

The Juvenile Justice (Care and Protection of Children) Act, 2015 is a comprehensive law that outlines the legal framework for dealing with children in need of care and protection and children in conflict with the law in India. The key provisions of the Act are as follows:

1. **Definition of Juvenile:** The Act defines a juvenile as a child who has not completed 18 years of age.
2. **Juvenile Justice Board:** The Act provides for the establishment of Juvenile Justice Boards (JJBs) in every district to deal with cases of children in conflict with the law. The JJB is responsible for determining whether the child has committed an offense and for deciding on appropriate measures for their rehabilitation and reintegration.
3. **Child Welfare Committee:** The Act also provides for the establishment of Child Welfare Committees (CWCs) in every district to deal with cases of children in need of care and protection. The CWC is responsible for providing care and protection to children who are in need of it, such as abandoned or orphaned children.
4. **Rehabilitation and Reintegration:** The Act lays down various measures for the rehabilitation and reintegration of children in conflict with the law, such as counseling, education, vocational training, and community service. The aim is to ensure that the child is not stigmatized and has the opportunity to reintegrate into society as a responsible citizen.
5. **Non-institutional care:** The Act encourages the use of non-institutional care options for children in need of care and protection, such as foster care, sponsorship, and adoption.
6. **Confidentiality:** The Act ensures that the identity of the child in conflict with the law and the child in need of care and protection is kept confidential to protect their privacy.
7. **Special provisions for heinous offenses:** The Act provides for a separate procedure for dealing with cases of heinous offenses committed by children aged between 16-18 years.

Overall, the Juvenile Justice (Care and Protection of Children) Act, 2015 is a progressive law that aims to provide a protective and rehabilitative environment for children in need of care and protection and those in conflict with the law, while also ensuring that their rights and best interests are protected.

LEADING CASE LAWS

There have been several leading cases in the Juvenile Justice system in India that have helped shape the legal framework and the approach towards dealing with children in conflict with the law. Some of the notable cases are:

1. Gopalanachari Makkapati v. State of Andhra Pradesh:

In this case, the Supreme Court of India considered the issue of the punishment to be given to a juvenile offender who was found guilty of an offense. The Court held that the objective of the Juvenile Justice Act of 1986 was to reform and rehabilitate the child in conflict with the law, and that punishment should be seen as a means to achieve this objective, rather than an end in itself. The Court held that the Juvenile Justice Board should take into consideration the age, character, and antecedents of the juvenile offender, as well as the circumstances in which the offense was committed, and then decide on the appropriate punishment. The Court also emphasized that the focus should be on the rehabilitation and reintegration of the child into society.

2. Salil Bali v. Union of India:

The Supreme Court of India considered the issue of the constitutionality of the Juvenile Justice (Care and Protection of Children) Act, 2000, particularly with regard to the setting up of Juvenile Justice Boards and the provisions for the detention and punishment of juvenile offenders. The Court held that the Act was constitutional and that the establishment of Juvenile Justice Boards was necessary to ensure that the rights of children in conflict with the law were protected. The Court also emphasized that the primary focus of the Act was on the rehabilitation and reintegration of juvenile offenders into society, rather than punishment. The Court further held that the detention of juvenile offenders should be a measure of last resort and that they should be provided with adequate facilities and services to ensure their care, protection, and education. The Court also recognized the importance of keeping juvenile offenders separate from adult offenders to prevent them from being exposed to further harm. Overall, the Supreme Court of India in *Salil Bali v. Union of India* upheld the constitutional validity of the Juvenile Justice (Care and Protection of Children) Act, 2000, and emphasized the importance of protecting the rights of children in conflict with the law and providing them with the necessary care, protection, and rehabilitation.

3. Jitendra Singh v. State of Uttar Pradesh:

In this case the Court held that the age of the juvenile accused must be determined on the basis of medical examination conducted by a duly constituted Medical Board. The Court also emphasized that the determination of age must be made at the earliest possible opportunity to ensure that the accused is dealt with in accordance with the law applicable to juveniles.

4. International Association for Human Rights v. State of Bihar:

This case dealt with the issue of the poor conditions in juvenile homes in Bihar. The Supreme Court directed the state government to take immediate measures to improve the living conditions and facilities provided to children in these homes. The Supreme Court of India took suo motu cognizance of the poor conditions in shelter homes for children in Bihar and issued various directions to the state government to improve the living conditions, hygiene, and security in these homes. The Court directed the state government to take immediate steps to ensure that the basic needs of the children, such as food, clothing, and medical facilities, were met. The Court also ordered regular inspections of the homes by independent agencies and directed the state government to take strict action against those responsible for any violations. The case was initiated by the International Association for Human Rights, but it was the Supreme Court of India that took suo motu cognizance of the issue and issued the directions.

5. Jarnail Singh v. State of Haryana:

In this case, the Court held that the provisions of the Juvenile Justice Act of 2015, including those relating to the age determination of juvenile offenders, must be applied retrospectively. The Court held that juvenile offenders who had been sentenced under the old law should be given the opportunity for rehabilitation and reintegration. These cases have helped to shape the legal framework and the approach towards dealing with children in conflict with the law in India, emphasizing the need for rehabilitation and reintegration measures rather than punishment, and the importance of protecting the rights and best interests of the child.

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

While the Juvenile Justice (Care and Protection of Children) Act, 2015 has improved the legal framework for dealing with children in conflict with the law and those in need of care and protection, there are still some challenges and issues with the implementation of the law. Some of the problems with the present Juvenile Justice Act, 2015 are:

1. **Lack of infrastructure and resources:** One of the key challenges in the implementation of the law is the lack of infrastructure and resources, especially in rural areas. Many states do not have adequate facilities for the care and rehabilitation of children in conflict with the law or those in need of care and protection.
2. **Delay in disposal of cases:** Despite the provisions for expeditious disposal of cases, there are still delays in the judicial process. This can lead to prolonged detention of children in conflict with the law and can impact their rehabilitation and reintegration into society.
3. **Inadequate focus on prevention:** While the law provides for rehabilitation and reintegration measures, there is not enough focus on preventive measures to address the root causes of juvenile delinquency. This includes issues such as poverty, lack of education, and social exclusion.
4. **Lack of awareness and training:** There is a lack of awareness and training among stakeholders, including police officers, lawyers, and judges, on the provisions of the law and the best practices for dealing with children in conflict with the law.
5. **Inconsistent implementation across states:** The implementation of the law varies across different states, with some states having better infrastructure and resources for dealing with children in conflict with the law than others.

Overall, while the Juvenile Justice Act of 2015 has made significant improvements in the legal framework for dealing with children in conflict with the law and those in need of care and protection, there are still several challenges and issues that need to be addressed to ensure effective implementation of the law.

RECOMMENDATIONS TO FURTHER IMPROVE THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

The Juvenile Justice Act, 2015 is a crucial legislation in India aimed at addressing the needs and rights of children in conflict with the law. However, there is always scope for improvement, and here are some recommendations to strengthen the Act:

1. **Age determination process:** The Act needs to have a more accurate and scientific method of age determination, especially for children who are on the cusp of adulthood. The current method of relying on the birth certificate or school records is not always reliable.

2. Rehabilitation and reintegration: The Act should emphasize more on the rehabilitation and reintegration of children in conflict with the law into mainstream society. The focus should be on providing education, vocational training, and counseling to ensure that they can lead productive lives.
3. Alternative forms of punishment: The Act should encourage the use of alternative forms of punishment, such as community service, probation, or counseling, instead of incarceration. This will help in reducing the overcrowding of juvenile homes and also promote restorative justice.
4. Implementation and monitoring: The Act needs to be implemented effectively, and its implementation should be regularly monitored. The government should also ensure that there is adequate infrastructure and resources for the effective implementation of the Act.
5. Child-friendly justice system: The Act should promote a child-friendly justice system that ensures the child's rights are protected throughout the legal process. This includes providing legal aid, counselling, and ensuring that the child is not subjected to any form of abuse or violence.
6. Special provisions for children with disabilities: The Act needs to have special provisions for children with disabilities who come in conflict with the law. This includes providing appropriate accommodation, access to health care, and specialized education.
7. Awareness and sensitization: The government should conduct awareness and sensitization campaigns to educate the public, especially law enforcement agencies, on the rights of children and the provisions of the Act. This will help in preventing the violation of the child's rights and ensure that justice is served.

The Juvenile Justice Act, 2015 is a step in the right direction, but more needs to be done to ensure that the rights of children in conflict with the law are protected. The recommendations outlined above can help in strengthening the Act and promoting a more child-friendly justice system.

CONCLUSION

The Juvenile Justice System in India is a crucial mechanism aimed at protecting the rights of children who come into conflict with the law. The system was introduced with the objective of promoting rehabilitation, reintegration, and restoration of children in conflict with the law, rather than punishment. The Juvenile Justice Act, 2015 is a significant legislation that provides for the protection, care, and rehabilitation of children in conflict with the law. The Act also outlines the procedures and mechanisms for dealing with such children and aims to provide a child-friendly justice system. However, there are still challenges in implementing the Act effectively. The age determination process is not always accurate, and there is a need for more comprehensive rehabilitation and reintegration programs for children. The lack of infrastructure and resources in juvenile homes is another challenge. Despite these challenges, there have been some positive developments in the juvenile justice system in India. The focus on rehabilitation and reintegration is slowly gaining momentum, and there is a growing awareness of the rights of children in conflict with the law. The government and civil society organizations are also working towards improving the infrastructure and resources in juvenile homes. While there is still work to be done, the Juvenile Justice System in India is an essential step towards promoting the rights of children and ensuring that they receive the care and support they need to lead productive lives.

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