

AN ANALYTICAL STUDY OF JUVENILE JUSTICE WITHIN THE CRIMINAL JUSTICE SYSTEM

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ABSTRACT

The study of global momentum on securing child rights has been prompted by a general worldwide concern over the rising graph of juvenile criminal austerly, or children under the age of eighteen, which has been widely accepted as the age limit under which all persons were to be treated as children. The United Nations Convention on the Rights of the Child (UNCRC), the most generally adopted international human rights convention in history, will be compared with the juvenile justice delivery systems of the United States, England, and India. Every nation has a unique definition of delinquency and method for dealing with those who have been legally classified as such. For example, in the systems that dispense justice, different names may have distinct meanings. Additionally, different states have varied standards for determining the age of criminal responsibility, and their respective processes varies as well. Their cross-cultural diversity, needs, and ethics, however, provide a strong justification for these disparate approaches. The necessity to safeguard children in the modern, civilised society is becoming more widely acknowledged because of their fragility, and their guidance—whether it be educational, sporadic, or personal—is given more importance. As a result, there is a movement to give children legal rights, which is causing existing juvenile laws all over the world to rapidly change. The author will examine the new laws to determine their viability and to see if they align with generally recognised legal norms.

In India, the juvenile justice system is designed to provide care, protection, and rehabilitation to juveniles who have entered into legal disputes. In keeping with the tenets of the United Nations Convention on the Rights of the Child, the Juvenile judicial (Care and Protection of Children) Act, 2015, is a legal framework that aims to create a judicial system that is considerate of children's needs and rights. Despite the existence of a legislative framework, there has been substantial debate regarding the efficacy of India's juvenile justice system. The system's alleged inability to effectively rehabilitate juvenile criminals and lower recidivism rates is a major point of criticism. There have been complaints made about the juvenile justice system's lack of facilities and resources.

As a result, the above mentioned conditions have led to overcrowding in juvenile residential facilities and a deficiency of amenities and resources necessary for successful rehabilitation. Furthermore, there are documented incidents of abuse and mistreatment of kids within the juvenile justice system. This circumstance raises questions about how well the system protects the rights of minors embroiled in legal disputes.

Despite these issues, India's juvenile justice system has seen some noteworthy improvements. For example, in order to address the root causes of juvenile delinquency and provide support to young people in order to discourage involvement in criminal activity, the system has recently placed a greater emphasis on restorative justice and diversion programs.

Keywords: United Nations, Convention, Board, Constitution, juvenile, delinquency, rehabilitation, offence, and judicial system

INTRODUCTION

In the late 1990s, the world assiduously changed its punitive system of justice to one that was more restorative. During this time of transition, there were several global changes and advancements, such as the acceptance of juvenile protection as a result of human rights. It alludes to a system that reacts to and heals vulnerable kids for their general development. Following the adoption of the Declaration of the Rights of the Child, the first instrument in this area, by the United Nations General Assembly in plenary session on November 20, 1959, "Subsequently, U.N. Standard Minimum Rules for the Adopted by signatories at the 6th and 7th U.N. Congresses on the Prevention of Crime and Treatment of Juvenile Offenders in 1985, the Beijing Rules govern the administration of juvenile justice. The "U.N. Convention on the Rights of the Child" (UNCRC) was adopted by the UN General Assembly in 1989, marking the 30th anniversary of the DRC. The "U.N. Rules for the Protection of Juveniles Deprived of their Liberty," which were adopted three years later, placed a strong emphasis on protecting young people and preventing deprivation of their freedom.

States began to react to the global expansion of the juvenile justice system by creating distinct court systems for young people, a demographic they feel has the potential to change. Since then, a number of jurisdictions have implemented youth-based service delivery systems in an effort to prevent youngsters from being exposed to severe criminal procedures. However, when determining the age of criminal responsibility, the main difference between the approaches taken by different nations emerges. The underlying reason of numerous discussions about juvenile laws is this distinction delinquency. Understanding this diversity will be improved by a comparative research with the UNCRC and a descriptive analysis of the US, UK, and India.

In India, the juvenile justice system plays a crucial part in helping young offenders get back on their feet and achieving their obligations. The importance of rehabilitating juvenile criminals rather than solely emphasising punitive measures has been recognised more and more in recent

years. Many rehabilitation programs that focus on the underlying causes of delinquency and support young offenders' effective reintegration into society have been introduced as a result of the shift in perspective.

The effectiveness of rehabilitation initiatives put in place within the Indian juvenile justice system is a topic of much concern and academic study. This study article's main goal is to evaluate the effectiveness of these initiatives and examine how they affect the decline in recidivism rates among young offenders.

Significant progress has been made in India's juvenile justice system, most notably with the passage of the Juvenile Justice (Care and Protection of Children) Act, 2015.

The concepts of rehabilitation and social reintegration for juvenile offenders within the judicial system are given a lot of weight in the Act. In order to lower recidivism rates and promote young people involved in legal disputes' successful reintegration into society, the law recognises the importance of providing them with educational, career, and skill-development opportunities. Evaluation of rehabilitation programs is crucial for determining their effectiveness and identifying areas that need improvement.

Policymakers and practitioners may get important insight into the benefits and limitations of these programs by thoroughly analysing their impact on reducing recidivism rates, improving educational and professional outcomes, and addressing mental health issues. The user's material is too brief for an academic rewrite.

By performing a thorough examination of the body of material already available on rehabilitation programs in India, this research project seeks to advance our understanding of the subject and then offer a comprehensive evaluation of their effectiveness. Furthermore, this study will highlight the numerous issues and limitations that arose during the execution of these projects and will propose a list of best practices and policy recommendations meant to enhance their efficiency of the Indian juvenile justice system. This analysis's main goal is to offer insightful information that can direct future adjustments and improve the results for India's young offenders.

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

An worldwide landmark in defining child rights is the ENCR, the most widely ratified international human rights treaty in history. In place of passive objects of care and charity, its 54 articles outline a specific set of rights that all children worldwide are entitled to, including civil, political, economic, social, and cultural rights. Previously, there was little focus on children's safety, rights, or liberty; they were viewed as the parents' property.

But. The concern for children, which began as a component of the concern for the future of individual nations, eventually expanded beyond the borders of the nation states and became a universal concern as nations came to understand the long-term benefits of safeguarding children and reducing their vulnerability. Since the first international child rights convention was ratified

in 1959, the UNCRC has developed in this manner. However, the UNCRC is somewhat behind due to a number of changes in laws and viewpoints. The convention's generic character is its main flaw. According to verteide, child rights, which were acknowledged by the convention, are now universally acknowledged as fundamental human rights. The primary driver of Juvende Coutila's development was the wide range of children who may be reformed a But now that justice has changed from being retributive to reformative, there doesn't seem to be a theoretical difference between the justice given to adults and that given to children.

Since the entire judicial system, including the criminal justice system, has adopted the same approach, it can now be argued that reform homes and juvenile centres are not exclusive to the juvenile system. The reformative mechanism grants adults the same privileges that were formerly reserved for minors. This expands the rights granted to children by making anyone in legal trouble, regardless of age, subject to reform. However, the alternative viewpoint, which is more pragmatic in nature, reveals the harsh fact that adult offenders are primarily horrible, unreformable, and cruel, and as a result, the juvenile justice system works to keep younger, more sensitive youngsters away from them.

Thus, although not in theory, reformatory homes serve as the juvenile justice system's backbone in practice by assisting in separating immature youth from offenders. Second, the convention is not a Bible to the ratifying states, even if they must abide by its articles. The convention itself permits nations to implement any stronger precaution regarding a child's nighttime under Article 41. This paragraph, however, failed to recognise the deceptive character of the phrase "better safeguards," which effectively grants states complete authority to disregard the convention.

A state can demonstrate whether a reasonable or unreasonable law is preferable to the convention it upholds if it has the capacity to do so. Additionally, it is simple to defend self-suiting legislation given the overabundance of legal options and the level of manipulation and interpretation that is insolus in such issues. Furthermore, there is no legal burden to the state even if it cannot demonstrate that it complies with the UNCRC.

The UN may open an investigation if it is determined that a nation is violating international norms to the point that it "seriously" denounces human rights. However, the accused nation's cooperation and consent are crucial to this probe. Furthermore, there is nothing serious to be afraid of in the alleged nation. This gives the nations a great deal of leeway to violate these international agreements and quickly escape.

LEGAL FRAMEWORK

The first law addressing juvenile offenders was the Apprentice Act of 1850, which mandated that those between the ages of 10 and 18 who had been found guilty by a court must undergo occupational training to aid in their rehabilitation and reintegration into society. The Reformatory Schools Act of 1897 was passed, succeeding its predecessor.

The Indian Jail Committee (1919–20) emphasised the significance of treating juvenile criminals fairly and holding them accountable. The Children Act was passed in Madras in 1920 as a result of the suggestions made. As a result, the Bengal Act and the Bombay Act were passed in 1922 and 1924, respectively. The Madras, Bengal, and Bombay statutes—which are regarded as pioneering statutes—saw significant modifications between 1948 and 1959.

A notable piece of legislation, the Children Act of 1960, was later passed in order to meet the needs of the Union Territories. The shortcomings in the previously mentioned legislation were addressed by the Children (Amendment) Act of 1978. In a number of places, including Parliament, the necessity for a comprehensive juvenile justice system that applies throughout the country has been brought up. However, because the subject area is covered by the State List as specified in the Indian Constitution, the passage of such legislation has been hampered.

In line with Article 253 of the Constitution and Entry 14 of the Union List, the Parliament has used its authority to pass laws that are enforceable across the country. By bringing the nation's juvenile justice system into accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (often referred to as the Beijing Rules, 1985), this law seeks to guarantee adherence to international obligations. On August 22, the Lok Sabha was asked to discuss the Juvenile Justice Bill of 1986.

The study's goals and scope were well-defined, and an evaluation of the efficacy of the current Children Acts suggests that more attention should be paid to children who have been identified as being in situations of poverty, neglect, or social abuse. Many people believed that using the adult criminal justice system on children was wrong. It was widely held that in order to effectively prepare for the nation's shifting social, cultural, and economic circumstances, a consistent juvenile justice system had to be put in place.

The Children Act of 1960 and other earlier state laws with similar requirements were superseded by the Juvenile Justice Act of 1986. According to the Juvenile Justice Act of 1986's rules, a person's age at which they could be considered a juvenile varied depending on their gender. In particular, males had to achieve the age of sixteen, while females had to reach the age of eighteen. Additionally, the historic *Sheela Barse v. Union of India* case may be credited with the passage of the Juvenile Justice Act of 1986. This legal action made clear how urgently comprehensive legislation created especially to safeguard children's rights and welfare is needed. Even after the Juvenile Justice Act of 1986 was passed, there were still a number of flaws in the law. As expected, the 1986 Act eventually proved to be insufficient, and the Juvenile Justice (Care and Protection of Children) Act of 2000 had to take its place. This law made gender parity in the legal age requirement a reality.

A comprehensive framework for protecting, caring for, and rehabilitating minors within the jurisdiction of the juvenile court system was established by the aforementioned legislation. Additionally, it promoted a novel approach to juvenile delinquency prevention and intervention in the field. In accordance with the 1989 United Nations Convention on the Rights of the Child

(UNCRC), the aforementioned law was passed, thereby reiterating the earlier Juvenile Justice Act of 1986, which was signed and ratified by India in 1992.

The Constitutional Bench of the Supreme Court of India rendered a major decision in the matter of Partap Singh v. State of Jharkhand. After a thorough analysis of the case, this ruling determined that the "date of commission of the offence" ought to serve as the benchmark for figuring out a juvenile's age. The Court reached this conclusion because of the inconsistencies and omissions in the new Act, especially with regard to how to calculate the age of a juvenile criminal. Therefore, in accordance to the aforementioned ruling by the renowned Supreme Court, the legislation dealing to this subject was revised.

On August 22, 2006, the Juvenile Justice (Care and Protection of Children) Amendment Act of 2006 went into effect. Because the Juvenile Justice Act of 1986 was still in effect at the time of the alleged incident, the modification gave those over 16 hope. The age requirement for people awaiting trial was raised from 16 to 18 years old as a result of the Juvenile Justice (Care and Protection of Children) Act, 2000.

In order to solve this issue, the Juvenile Justice (Care and Protection of Children) Amendment Act of 2006 included a particular clause to Section 20. On the other hand, minors took advantage of this legal system, which led to widespread occurrences of young people committing heinous crimes throughout the nation. The offenders showed a limited comprehension of the defence put out by the revised Act.

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT ENACTED IN THE YEAR 2000

The Act of 2000 was a sincere attempt by the Indian government to include the tenets of numerous UN accords, including the 1990 Rules, the Beijing Rules, and the Convention on the Rights of the Child (CRC). To treat offences committed by people under the age of majority in a way different from the legal framework applicable to adults, the Supreme Court of India passed the Juvenile Justice (JJ) Act of 2000.

The Act's structure shows a predilection for rehabilitation over the adversarial method sometimes used in court. Since the active support of individuals in positions of authority was essential to the initiative's realisation, its successful execution required a fundamental paradigm shift in their thinking. It would be extremely difficult to achieve its goals without such support.

Given that the appellant was 16 years old at the time of the incident, the Supreme Court ruled in Jameel v. State of Maharashtra [15] that the appellant's claim regarding the applicability of the JJ Act, 2000 is unquestionable. Because the offence of unnatural intercourse occurred on December 16, 1989, the JJ Act of 2000 could not be applied.

According to the Juvenile Justice Act of 1986, a person is considered "juvenile" if they have not reached the age of 16 or 18, depending on their gender, as defined by the Act. Because the accused had already passed the age of 18 when the JJ Act, 2000, went into effect, the argument

that the JJ Act, 2000, is justified because the accused was under the age of 18 at the time of the incident is therefore unpersuasive.

The state government has the authority to create a Juvenile Justice Board (JJB), sometimes known as the JJB, and it may decide to do so for a single district or a collection of districts. The formation and composition of the board are covered in detail in Section 4 of the JJ Act, 2000. If the Board is not currently in session, it is acceptable to bring a child who has participated in delinquent behaviour before a designated member of the Board in accordance with the provisions stated in Section 5(2).

According to Section 6(1) of the 2000 Act, the Board has the only authority to decide any case involving minors who are in conflict with the law. It is suggested that observation houses be set up in each district or group of districts to temporarily house minors embroiled in legal disputes while investigations are ongoing.

The law also established new regulatory agencies and establishments, like specialised residential facilities, which classified children based on their age, physical and mental health, and the type of offences they had committed. When compared to earlier approaches, this strategy showed a stronger focus on reform.

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

The December 16, 2012, gang rape assault in Delhi, often known as the Nirbhaya case, attracted a lot of national attention and highlighted the shortcomings in the juvenile laws that were in place at the time. The existing juvenile law laws have drawn a lot of criticism from all throughout the country since they are thought to be insufficient in discouraging criminal activity by minors, namely those between the ages of 16 and 18, who commit horrible crimes like rape and murder. This unfortunate the current legal system has been under intense scrutiny and criticism as a result of this tragedy. Following the events in the Nirbhaya case, there was an urgent need to change the law that requires 16 and 17-year-olds to be tried as adults. In response to popular outcry, the Indian Parliament passed the Juvenile Justice (Care and Protection of Children) Act, 2015, in 2015. However, there was a lot of debate, controversy, and criticism around its acceptance from the child rights community, primarily because of worries about a number of the Act's provisions.

The current statute under debate replaced the previously mentioned Juvenile Justice (Care and Protection of Children) Act of 2000. In order to address the problem of juvenile delinquency in India, the previous act permitted those between the ages of 16 and 18 who engaged in serious criminal activity to face adult legal proceedings. According to the aforementioned law, the Juvenile Justice Boards, which are made up of two social workers and a metropolitan or judicial magistrate, have the authority to decide whether to prosecute the offender as a juvenile or as an adult in adult court.

Prior to its inclusion in the most recent measure, the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption, 1993, was absent from the prior legislation. Additionally, the law aimed to improve the effectiveness of the adoption procedure for children who are willingly relinquished, orphaned, or abandoned. The upper house, known as the Rajya Sabha, approved the bill on December 22, 2015, after the lower house, known as the Lok Sabha, did so on May 7, 2015. The Indian President signed the bill on December 31, 2015, and it became operative on January 15, 2016.

The United Nations Convention on the Rights of the Child (CRC), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (also known as the Beijing Rules, established in 1985) are the three international treaties that India has committed to upholding, so the new legislation was enacted. The phrase "Havana Rules, 1990" is mentioned.

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT BILL, 2021

The proposed legislation known as the Juvenile Justice (Care and Protection of Children) Alteration Bill of 2021 is the topic of discussion. On March 15, 2021, the Lok Sabha effectively ratified the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021. The goal of this measure is to amend the current Juvenile Justice Act of 2015. Both members of the ruling party and the opposition expressed their significant appreciation for the new bill, which was introduced by Ms. Smriti Zubin Irani, Minister of Women and Child Development. The Rajya Sabha gave its approval to the Child changes on July 28, 2021.

JJ BOARDS AND CHILD WELFARE COMMITTEES

The act created Child Welfare Committees and Juvenile Justice Boards to deal with matters involving children in need of care and protection and minors in dispute with the law, respectively. A Juvenile Justice Board, or JJB, may be established by the state government for a particular district or for a group of districts. The provisions relating to the development and composition of the JJ Act, 2000 are contained in Section 4. In accordance with the provisions of Section 5(2), if the Board is not currently in session, a minor who has engaged in delinquent behaviour may be brought before a designated member of the Board.

In accordance with Section 6(1) of the 2000 Act, the Board alone has the authority to decide any matter involving minors who have broken the law. Teens embroiled in court disputes: In order to provide teenagers with short-term reception facilities during an ongoing investigation, observation homes are to be established in each area or group of districts.

A variety of additional organisations and resources were also covered by the law, including specialised residential institutions that classified young people based on their age, physical and

mental health, and the particulars of their offence. This strategy displayed a greater emphasis on reform compared to earlier approaches.

CONCLUSION

To sum up, India has achieved great progress in its juvenile justice and rehabilitation policies, emphasising the rights and welfare of children. To guarantee a better future for young offenders, there are still obstacles to be addressed, such as raising awareness, minimising crowding, and boosting the efficacy of rehabilitation programs. Acts, declarations, or conventions that are painstakingly draughted and presented as policies, reflecting the high calibre of the goal, are included in the established rule.

Nonetheless, there is a serious flaw in the way the implementation process is being carried out. The requirements outlined in the laws, rules, or guidelines have not been properly taken into account in cases when there has been a regulatory violation. People are willing to express their support and take part in advocacy on behalf of those who are being accused, imprisoned, and found guilty, especially when it comes to the protection of human rights.

But it's important to emphasise that just a small percentage of people actively commit to promoting the welfare of the younger generation, who are generally seen as the country's future pillars. Protecting the accused's rights is given more importance by the legal system, which also gives investigating the accused's human rights abuses top priority. It does not, however, sufficiently address the violation of kids' fundamental rights.

Instances involving child care, particularly child labour and bonded labour, have been reported to the Honourable High Court. When addressing these issues, the judges pay close attention, giving special weight to making orders, giving instructions, and finally wrapping up the proceedings.

Since a sizable percentage of those who commit crimes have a high educational background and strong spiritual beliefs, the topic of the effectiveness of religion and education in the rehabilitation of offenders continues to be a major focus of research.

Nonetheless, the following should be taken into consideration while making any necessary adjustments to the juvenile justice system.

1. The minor's mental state.
2. Social obligations.
3. The ability to adjust.
4. That the laws passed should be genuinely and realistically adhered to.
5. The goal is to improve society so that children have the chance to develop and thrive.
6. Education and awareness campaigns to raise parents' and kids' awareness on an equal basis.
7. Recognise the causes and motivations behind juvenile offences

8. Persuading society, NGOs, and the government to support the cause of juvenile offenders.

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