

Dynamics of India's Juvenile Justice System and Its Impact on Delinquency

Author- Ms. Seema Roj

Research Scholar, Manipal University Jaipur

Seemaroj2@gmail.com

Co-author- Dr. Kiran Raj

Assistant Professor, School of Law Manipal University Jaipur

ABSTRACT

This comprehensive research embarks on a nuanced exploration aimed at dissecting the evolutionary trajectory of the juvenile justice system in India and its consequential influence on the persistent challenge of juvenile delinquency. The significance of this societal issue is underscored, recognizing its profound implications on the very fabric of our communal existence. The journey through this investigation spans the annals of time, tracing the historical metamorphosis of juvenile justice practices in India. Commencing with a scrutiny of the initial informal methodologies employed, the narrative unfolds as it navigates through pivotal epochs, culminating in the formal institutionalization of legal frameworks. This historical lens enables a holistic understanding of the roots and evolutionary forces that have shaped the contemporary landscape of juvenile justice. A critical facet of this inquiry involves a meticulous appraisal of the multifaceted factors that contribute to the phenomenon of juvenile delinquency in the Indian context. By examining societal, familial, and systemic determinants, the study strives to unravel the complex tapestry that often propels young individuals towards criminality. Integral to the research is a rigorous evaluation of the efficacy of present legal and rehabilitative measures designed to address youth criminality. This assessment scrutinizes the extent to which existing frameworks succeed in mitigating the challenges posed by juvenile delinquency. Through a synthesis of empirical data and case studies, the research aims to provide insights into the strengths and shortcomings of the current strategies.

The culminating section of this paper transcends the realms of analysis, offering tangible solutions in the form of policy enhancements and targeted interventions. Recognizing the multifaceted nature of juvenile delinquency, these recommendations aim to address the intricacies of prevention, intervention, and rehabilitation. By proposing actionable policy improvements, the research endeavours to contribute to the ongoing discourse on juvenile justice in India, offering a roadmap towards a more effective, humane, and equitable system.

Keywords Juvenile Justice Act, Juvenile Justice, Delinquency

Introduction

The terms "Juveniles," "Juvenile Delinquency" and "Children in Need of Care & Protection" are intrinsic to the complicated underpinnings of how youth perpetrators, as well as vulnerable children in India would be addressed. In this section, we begin a quest for understanding the evolution of formulating laws and policies relevant to juvenile justice in their cultural contexts.

The genesis of this system is rooted in the recognition of the unique vulnerabilities and potential for reform inherent in youthful offenders. The historical trajectory begins with an exploration of informal practices that sought to address the needs of young transgressors. This early phase laid the groundwork for a more formalized approach, recognizing the necessity for an evolving system that could adapt to the complexities of juvenile delinquency.

Central to this historical exploration is an acknowledgment of the diverse cultural fabric of India. The evolution of the juvenile justice system is intricately interwoven with the nation's cultural nuances, necessitating an approach that aligns with the values and traditions of its myriad communities. The development of legal frameworks is, therefore, a dynamic process that mirrors the ever-changing sociocultural landscape.

The narrative unfolds against the backdrop of both national imperatives and global perspectives on juvenile justice. National influences reflect the intrinsic need to address the unique challenges posed by juvenile delinquency within the Indian context. Simultaneously, international influences, shaped by global standards and conventions, play a pivotal role in shaping the legal framework concerning youth offenders in India. The convergence of these influences contributes to the ongoing refinement and adaptation of policies and laws.

While analyzing the historical development of juvenile justice system, it is clear that three terms: "Juveniles," "Juvenile Delinquency," and 'Children in Need of Care and Protection' act as critical milestones on this journey towards creation a rehabilitative-protective oriented institution. This part functions as a doorway to an in-depth analysis of the intricate layers that have influenced juvenile justice growth trajectory, through its formative stages and into contemporary India.

Historical Context and Development of Juvenile Laws in India

The development of the juvenile justice system in India has strong links with historical experiences and diverse cultural inheritance of the nation. In the traditional setting, communities used unofficial practices to curb delinquency among minor children. These early approaches were often embedded in local customs, reflecting a communal effort to manage and reintegrate young offenders into society. Over time, societal progress prompted a crucial shift in perspective, leading to the formalization of legal mechanisms to deal with juvenile delinquency.

The recognition of the unique vulnerabilities associated with juveniles became a driving force behind the establishment of a more structured juvenile justice system. This transition marked a significant departure from informal practices as the evolving system aimed to address the distinct needs of youthful transgressors. The acknowledgment that young offenders warranted a different approach underscored a commitment to not only punish but also rehabilitate, paving the way for a more nuanced and comprehensive system.

As the juvenile justice system continued to evolve, a core aspect emerged the need to strike a balance between punitive measures and rehabilitative interventions. This delicate equilibrium became central to the system's philosophy, emphasizing the importance of fostering rehabilitation alongside punitive actions. This balanced approach reflected a commitment to addressing juvenile delinquency in a manner that considered both the protection of society and the potential for positive transformation in young offenders.

The Development of Juvenile Justice Law in India

Period Prior To 1773

With personal laws such as Hindu and Muslim law, the responsibility for rearing and supporting children in India fell largely to parents or family. Charity had a significant role in looking after neglected and deprived children of the orphanage; it was reflected from both Hinduism as well as Islam traditions. While the laws did not explicitly reference juvenile delinquents, a closer examination of texts like the Hedaya and Manusmriti revealed distinct punishments for certain offenses committed by children.

Period From 1773-1840

This period, which extended from 1773 to the year 1840 is also associated with transformation of East India Company into a governing body. The closing of the era came with child-related legislation, which was a milestone on the road to juvenile justice development.

Period From 1843-1950

In 1843, the establishment of the 1st ragged school for vagrant and orphan children marked a pivotal development. Dr. Buist, an Englishman instrumental in founding the David Sassoon Industrial School in Bombay, aimed to reform juvenile offenders and promote apprenticeship among the working class. These initiatives set the stage for the introduction of the Apprentices Act, among other legislations covering various aspects concerning children.

Period From 1950-1986

After its independence in 1947, India had to deal with the problems of partition riots and migration that left scores of children homeless or lacking proper family care. In April 1953 the Children Bill applicable to Part C states was discussed and laid aside in light of state reorganization. In 1960, there was the first central Children Act enacted by Parliament that applied to union territories. In 1983, a series of legal challenges spearheaded by journalist Sheela Barse shed light on the unlawful incarceration of children in prisons. With a view to eliminating disparities in the treatment of children across India, the Supreme Court advocated for uniform legislation.

Period Post 1986

This period marked a significant milestone with the passage of the Juvenile Justice Act of 1986 by the Parliament. Applicable to the entire country except Jammu and Kashmir, the act retained key features of the Children Act of 1960. It prohibited the detention of children in jails, correctional facilities, or police stations under any circumstances. Challenges arose regarding the jurisdiction of children's courts for serious offenses, but the Supreme Court clarified their competence to try all offenses, including those punishable with death or life imprisonment. Subsequent legal challenges tested the applicability of the Juvenile Justice Act to offenses under special laws, resulting in varied court decisions.

Ratification of the UN Convention on the Rights of the Child (CRC) (1992)

India ratified the UN Convention on the Rights of the Child (CRC) in 1992, which was an important milestone reflecting its desire to respect and preserve children's rights. The ensuing legal developments mirrored this dedication paying regard to the issues presented by implementing UN committee under CRC. The Committee expressed special concern regarding the young age of criminal responsibility at seven years in Penal Code and possibility to try male teenagers aged sixteen-eighteen as adults. As a reaction to these fears, the Indian Parliament passed in 2000 Juvenile Justice (Care and Protection of Children) Act harmonizing it with international instruments including CRC as well as United Nations Standard

Minimum Rules for Administration of Juvenile justice mentioned also by Beijing rules and UN Rules on protection detention. However, these legislative progresses notwithstanding the age of criminal liability in India as seven years to date. The following Juvenile Justice (Care and Protection of Children) Amendment Acts in 2006 and 2011 were geared towards better implementation, supervision as well as management of the provisions under this act. The accompanying Juvenile Justice (Care and Protection of Children) Rules, 2007 prescribed the guidelines for effective implementation of Act which could be modified by State Governments.

Particularly, the incidents like “Delhi Gang Rape Case of 2012” triggered laws such as enactment after it brought out inadequacies in existing legal provision and highlighted deficiencies juvenile justice system calls for legislative reforms. This law replaced the Juvenile Justice (Care and Protection) Act of 2015, which aimed to unify laws relating juveniles’ offenders and children in need of care and protection. The Act tried to meet their vital requirements through appropriate care, protection, growth, and development treatment as well as social integration.

The most crucial part of this Act is the definition of “Claim for Juvenility” which has been a bone-of contention. The task of the Juvenile Justice Board is to decide on this claim ahead of court proceedings, but it can be raised at any time and even after that very decision. In cases such as the *Kulai Ibrahim v. State of Coimbatore*, Court judgements highlight on accused’s right to give juvenility at any stage during or after trial proceedings that he is a child and not an adult when under arrest for committing crime. However, the court case of *Deoki Nandan Dayma v. Province of Uttar Pradesh* decided that proofs associated with school records showing date when birth occurred considered as pieces to assist in determining age accused. These legal developments demonstrate the transformation and intricacies of India’s juvenile justice system shaped by national and international concerns.

The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2018

The Juvenile Justice (Care and Protection of Children) Amendment Bill of 2018 is currently pending in the legislative house and undergoing deliberation. The examination of this bill reveals several noteworthy points:

1. **Shift in Authority for Adoption Orders:** The existing Juvenile Justice Act of 2015 stipulates that the issuance of adoption orders for a child is the final step upon the court's receipt of an adoption request. However, the Bill proposes a significant shift in authority by suggesting that the district magistrate, instead of the court, will issue such adoption orders.
2. **Pending Adoption Cases:** With 629 adoption cases currently pending across various courts, the Bill aims to streamline the adoption process by transferring the power to issue adoption orders to the district magistrate. The consideration here lies in evaluating whether the magnitude of pending cases justifies this transfer of responsibility to the district magistrate.
3. **Legal Implications of Adoption:** Adoption, being a legal process establishing a permanent legal connection between a child and adoptive parents, raises questions about appropriateness in vesting the authority to issue adoption orders with the district magistrate rather than a civil court. This aspect prompts a critical examination of the proposed change and its potential impact on the legal procedure.

Historical Legislative Framework

The discussion also delves into historical legislative acts addressing child-related concerns in India. The Female Infanticide Prevention Act of 1870, enacted during British rule, aimed to prevent the murder of female infants. The Factories Act of 1881 marked the initiation of legal protection for working children, establishing regulations for their employment in factories.

Guardianship and Wards Act 1890: The Guardianship and Wards Act of 1890 introduced provisions for the continued care and protection of minors. This act empowered the court or appointed authority to decide on the guardian of a child, considering applications containing comprehensive information about the child, the guardian, and reasons for guardianship.

Madras Children Act 1920: Madras led the way in enacting the first Children Act, which pertained to juvenile courts modeled on a paternal basis of that adopted by United States. Interestingly, there was no right to have a lawyer the juvenile courts had at that time which showed this paternalism.

Delinquency, its current status and Juvenile Justice System in India

The development of laws related to the Juvenile Justice System has been significantly influenced by international policies and principles addressing Juvenile Delinquency. Universally accepted principles focus on safeguarding and providing a supportive environment for juveniles. This section explores these principles and examines international instruments that contribute to shaping a robust framework for the juvenile justice system. Internationally acknowledged principles form the bedrock for the protection and care of juveniles within the justice system. The analysis of these principles is crucial for a comprehensive understanding of the subject matter and its associated research.

The Criminal Justice System, in its broader context, and the administration of juvenile justice, in particular, are guided by fundamental concepts and terminology. Various international documents not only outline these principles but also establish a settings framework for the development of juvenile justice. This aspect is further explored in detail, which reveals the details of these tools and focuses on their crucial provisions and implications. Each order, both in respect of principles or international instruments is made up by explicit formulations that clarify fundamental concepts. Grasping the concepts and terminology is paramount for understanding the intricacies of the subject matter and conducting in-depth research in the relevant field.

The legal categorization of minors plays a pivotal role in shaping the approach of judicial systems towards young offenders within a given nation. Within the global context and particularly under India's Juvenile Justice System, minors, or children, are subject to a distinct legal treatment that diverges from the procedures applied to adults. The characterization of a child as *Doli incapax*, indicating a lack of mensrea or the ability to comprehend the consequences of their actions, underscores the understanding that children, especially those between the ages of 7 and 12, are not capable of committing offenses punishable under IPC, 1860.

The analysis of statistics from the National Crime Records Bureau (NCRB) shows a disturbing trend in criminal activities committed by juveniles, especially in category between age-16 and age-18. This movement resulted in the Lok Sabha's introduction of Juvenile Justice Bill whereby 2015, after Nirbhaya case. Though the Indian Acts did not speak about serious offenses by juveniles aged 16-18 years, new legislation was aimed at addressing challenges related to implementation and nullification of legal gaps. While the 2015 bill has borrowed from the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption 1993, it entrusted Juvenile Justice Board to decide whether an offender aged between sixteen years eighteen should be viewed as adult. In the case of heinous crimes like Murder and Rape which have a sentence for more than 7 years, adult treatment could be considered with rehabilitation still being referred to as an option decided by Board.

The Juvenile Justice Act, places a great deal of importance on prevention strategies in addressing juvenile delinquency. Acknowledging the weakening power of family and community controls on their individual members, Act highlights the importance of a role played by families in controlling juvenile delinquency as written down Prakash Haveripet (2013). Editing: Caring, nurturing and protecting children is the responsibility of family that is regarded as such fundamental structural and functional unit in a society. As a result, children are steered toward responsible citizenship and protected from harmful practices including substance abuse and inappropriate material. The Juvenile Justice Act embraces a comprehensive approach in dealing with the issue of juvenile delinquency by adopting legal provisions that promote responsiveness and rehabilitation.

Discussion and Policy Recommendation

The administration should escalate its endeavors to efficiently enforce prevailing legislations and rectify inherent deficiencies in current programs, augmenting their comprehensive efficacy. The Social Welfare Department acts as a pivotal intermediary between the Juvenile Justice (Care and Protection of Children) Act, 2015, the Convention on the Rights of the Child, and constitutional stipulations such as Article 15(3), Article 21-A, Article 39(e) & (f), Articles 46, and 47. These constitutional provisions entrust the State with the fundamental duty of guaranteeing the fulfillment of all children's requisites and ensuring the complete safeguarding of their fundamental human rights. However, the critical imperative lies in translating these provisions into tangible actions, marked by an unwavering commitment to realizing the assurances extended to forthcoming generations by the State.

The media's depiction of children, whether as transgressors or victims, possesses the potential to inflict adverse consequences on their welfare. Instances where the media divulges the identities of children, contravening the Act's provisions, have been noted, resulting in catastrophic repercussions for the implicated children. Although the Act explicitly prohibits the disclosure of a child's identity in the media and the publication of their photograph, these provisions are frequently disregarded in practice by the police and even the juvenile unit. This underscores the necessity for initiatives that sensitize personnel associated with the Juvenile Justice (Care and Protection of Children) Act, 2015, encompassing the Special Juvenile Police Unit, emphasizing the significance of comprehending and safeguarding the rights of such children.

An external supervisory mechanism is indispensable to guarantee the proper functionality of any jurisdiction. Irrespective of the altruistic intentions of leaders and agencies, no jurisdiction should autonomously monitor its own system. This underscores the significance of having robust external oversight mechanisms to furnish an impartial assessment and ensure accountability in the execution of laws and the protection of children's rights.

Conclusion

The Juvenile Justice Act 2016 is one of the progressive steps taken by Indian government in accordance with modern trends juveniles themselves change as well and they only follow their nature. Human Resource Development, with an

underlying philosophical foundation in education has a catalytic influence on the socio-economic fabric of nation towards better human life. But while there are growing economic benefits on a broader level, specific measures must be made to ensure the inclusion of vulnerable groups including women, children and elderly destitute persons with disabilities. Children encounter myriad challenges like neglect, abuse, labor, and delinquency, encompassing two forms of juvenile delinquency in the Indian perspective: Children in conflict with the law and children under guardianship.

Researchers argue that this indicates persistent delinquency patterns among impoverished neighborhoods, in opposition to the "culture of poverty". The gang has commonly been a channel for adolescents especially in the inner cities, but it was only after development of juvenile court that youthful offenders judgement formally becomes separated from adult's 1899. Derived from informal procedures and correction rather than punishment, this system represented a major transition in dealing with juvenile delinquency. Prior to the UN Convention on the Rights of Child in 1989, with regard to address challenges such as "juvenile delinquency" and "child neglect", provisions were already made under Articles 24,39(e), and article. In 1974, the Union Government implemented a national policy for children following constitutional provisions and promising state support in full development of children. As a result, the Juvenile Justice Act of 1986 has given way to the more comprehensive The Juvenile Justice (Care and Protection of Children) Act in 2000 which was again revised into further refinement.

In line with the objectives of the Juvenile Justice (Care and Protection of Children) Act, 2015, the government has established several residential institutions. For comprehensive child development, the Integrated Child Development Services (ICDS) program, a unique outreach initiative globally, delivers services such as supplementary nutrition, immunization, health check-ups, and referral services, along with pre-school non-formal education.

Despite the adoption of various welfare schemes, the effectiveness of these programs in improving the condition of children in India remains limited. Human rights for children, once overlooked, are now recognized as crucial. Formulating rights for children not only provides norms for their proper upbringing but also secures state and civil society support for realizing these rights, encompassing socio-economic assistance, educational infrastructure, and a robust legal framework.

The magnitude of the issue is underscored by an International Labour Organization Survey indicating approximately 215 million child workers aged between 5 and 14 worldwide. Children are found working in various industries, raising concerns about exploitative labor practices. The shifting parameters necessitate a strict adherence to the fundamental right to education up to the age of 14, challenging the existence of working children and advocating for the eradication of cheap and exploitable labor practices.

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