
AN ANALYSIS OF JUVENILE JUSTICE AND REHABILITATION MEASURES UNDER THE JUVENILE JUSTICE ACT, 2015 IN INDIA

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ABSTRACT

There is a global concern over the rising incidence of juvenile delinquency, defined as crimes committed by individuals below the age of eighteen, which is widely recognized as the age threshold for defining childhood. This concern has led to significant international efforts to secure child rights. A comparative analysis of the juvenile justice systems in the U.S., England, and India, alongside the United Nations Convention on the Rights of the Child (UNCRC), reveals diverse approaches to defining delinquency and establishing the age of criminal responsibility. Variations in terminology and procedural frameworks reflect each nation's cultural, ethical, and societal needs. In modern societies, there is growing recognition of the importance of protecting vulnerable children, emphasizing their educational, vocational, and personal guidance. Consequently, global reforms have led to the introduction of legal rights for children and the reformation of existing juvenile laws. In India, the Juvenile Justice (Care and Protection of Children) Act, 2015, aligns with UNCRC principles, focusing on care, protection, and rehabilitation for minors involved in legal conflicts. However, the system has faced criticism for its limited efficacy in rehabilitating juvenile offenders and reducing recidivism. Challenges include inadequate resources, overpopulated facilities, and documented cases of abuse within the system, raising concerns about the protection of juveniles' rights. Despite these issues, the system has shown progress, with a recent focus on restorative justice and diversion programs aimed at addressing root causes of juvenile delinquency and providing young individuals with the support needed to avoid criminal behavior.

Keywords: Juvenile, Delinquency, rehabilitation, Offence, justice system, Constitution, Board, United Nations, Convention.

Introduction

In the late 1990s, the global justice system underwent a significant shift from a retributive to a restorative approach. This transition was marked by a series of reforms and developments, including the international recognition of juvenile protection as an essential aspect of human rights. This approach emphasizes mechanisms designed to rehabilitate vulnerable children and support their overall development. On November 20, 1959, the United Nations General Assembly adopted the Declaration of the Rights of the Child, the first treaty addressing child rights. Subsequently, the U.N. Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) were adopted during the 6th and 7th U.N. Congress on the Prevention of Crime and Treatment of Juvenile Offenders in 1985. On the 30th anniversary of the Declaration of the Rights of the Child, the UN General Assembly adopted the Convention on the Rights of the Child (UNCRC) in 1989. Three years later, the U.N. Rules for the Protection of Juveniles Deprived of their Liberty were established, focusing on safeguarding juveniles and preventing their unjust deprivation of liberty. With the global evolution of the juvenile justice system, many states responded by creating separate court systems for juveniles, recognizing their potential for change. Over time, numerous countries adopted youth-centric service delivery systems to shield children from harsh criminal procedures. However, significant differences remain in how nations determine the age of criminal responsibility, leading to debates surrounding juvenile laws. A descriptive analysis of the juvenile justice systems in the U.S., UK, and India, combined with a comparative study of the UNCRC, provides valuable insights into these diverse approaches.

The juvenile justice system in India plays a critical role in addressing the needs and facilitating the rehabilitation of juvenile offenders. In recent years, there has been a growing recognition of the importance of focusing on rehabilitative measures rather than punitive approaches. This shift in perspective has led to the development of various rehabilitation initiatives aimed at addressing the root causes of delinquency and supporting the reintegration of young offenders into society. However, the effectiveness of these programs has garnered significant attention and debate among scholars and policymakers. The Juvenile Justice (Care and Protection of Children) Act, 2015, has been a landmark advancement in India's juvenile justice system. The Act prioritizes rehabilitation and social reintegration, emphasizing the provision of educational, vocational, and skill development opportunities for juveniles involved in legal conflicts. By addressing these areas, the legislation seeks to reduce recidivism and ensure the successful

reintegration of young individuals into their communities. Assessing the effectiveness of these rehabilitation programs is crucial for identifying strengths and addressing weaknesses. Evaluations focusing on reducing recidivism rates, improving educational and occupational outcomes, and addressing mental health challenges provide valuable insights for policymakers and practitioners. Such analyses can help refine the programs to ensure they are better equipped to meet the needs of juvenile offenders and contribute to their holistic development, ultimately fostering a more effective and inclusive juvenile justice system in India.

This study seeks to expand the existing knowledge base by systematically analyzing the literature on rehabilitation programs in India and comprehensively assessing their effectiveness. It aims to identify the challenges and constraints encountered during the implementation of these programs and propose best practices and policy recommendations to enhance their efficacy. The primary objective is to provide actionable insights that can guide future reforms and improve outcomes for juvenile offenders within the Indian juvenile justice system.

The United Nations Convention on the Rights of the Child

The UNCRC, the most widely-ratified international human rights treaty, marks a significant milestone in defining and safeguarding child rights. Comprising 54 articles, it establishes a comprehensive framework of civil, political, economic, social, and cultural rights for children worldwide, moving beyond the traditional view of children as mere dependents. Historically, children were often regarded as property of their parents, with little attention paid to their protection or liberties. Over time, however, nations began recognizing the long-term value of protecting children and reducing their vulnerabilities. Initially a national concern tied to individual countries' futures, the focus on child rights eventually transcended national boundaries to become a global priority. This shift led to the adoption of the first international treaty on child rights in 1959, forming the foundation of the UNCRC. Despite its groundbreaking impact, subsequent legal and societal developments have highlighted areas where the UNCRC has become somewhat outdated, underscoring the need for ongoing evolution in the protection of children's rights. A significant limitation of the UNCRC is its generic nature, as it broadly defines child rights that have since been recognized globally as fundamental human rights. The evolution of juvenile justice systems was primarily driven by the potential for reforming children. However, as justice systems transitioned from retributive

to reformatory models, the distinction between justice for children and adults has diminished. Reform homes and juvenile centers, once unique to the juvenile system, are now reflective of broader reformatory justice mechanisms applied to individuals of all ages. This generalization undermines the specific focus on children, although it is practically justified in separating vulnerable juveniles from adults who are often hardened and resistant to reform.

Reformatory homes continue to play a critical role in the juvenile justice system by safeguarding immature and impressionable children from the influence of adult criminals. Nonetheless, while the UNCRC obligates ratifying states to observe its articles, it is not binding like a religious doctrine. Article 41 of the convention allows states to implement "better safeguards" for child rights, but this provision is susceptible to manipulation. States can exploit this clause to justify laws that deviate from the convention, claiming they are more suitable. This flexibility, coupled with the availability of extensive legal recourse and interpretative leeway, makes it easy for countries to adopt self-serving laws while avoiding accountability.

Even in cases where a state's actions conflict with the UNCRC, the consequences are minimal. Investigations by the United Nations into severe human rights violations depend on the accused country's consent, leaving little at stake for non-compliant nations. This lack of enforceability creates opportunities for countries to bypass international standards and undermine the convention's intended purpose.

Legal Framework

The Apprentices Act of 1850 marked the first legislative effort addressing juvenile offenders in India. It mandated that individuals aged 10 to 18, who were convicted by a court, undergo occupational training to support their rehabilitation and reintegration into society. This was followed by the enactment of the Reformatory Schools Act of 1897, which built upon the foundation laid by its predecessor, further shaping the framework for juvenile rehabilitation. The Indian Jail Committee (1919-20) emphasized the need for equitable treatment and accountability for juvenile offenders. Its recommendations led to the enactment of the Children Act in Madras in 1920, followed by the Bengal Act in 1922 and the Bombay Act in 1924. Between 1948 and 1959, these pioneering statutes underwent significant amendments, reflecting evolving perspectives on juvenile justice and the need for progressive reforms.

The Children Act of 1960, a significant legislative step, was introduced to address the needs of

Union Territories. Later, the Children (Amendment) Act of 1978 was enacted to rectify shortcomings in the earlier legislation. Despite discussions in various forums, including Parliament, the need for a comprehensive juvenile justice law applicable nationwide faced hurdles due to the subject's inclusion in the State List under the Indian Constitution.

However, Parliament exercised its jurisdiction under Article 253 of the Constitution, in conjunction with Entry 14 of the Union List, to enact uniform legislation across India. This aimed to align the juvenile justice system with international commitments, particularly the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985). As a result, the Juvenile Justice Bill of 1986 was introduced in the Lok Sabha on August 22, marking another step toward comprehensive juvenile justice reform. The study's objectives and scope were clearly articulated, highlighting the necessity of addressing the needs of children facing social mistreatment, poverty, or neglect. Analysis of the existing Children Acts revealed the inadequacy of subjecting minors to the adult criminal system, which was widely regarded as inappropriate. There was a strong consensus on the need to establish a consistent juvenile justice system to effectively respond to the evolving social, cultural, and economic conditions of the nation. The Juvenile Justice Act of 1986 superseded earlier state laws, including the Children Act of 1960, which had similar provisions. Under the 1986 Act, the age threshold for defining a juvenile varied by gender: males were considered juveniles until the age of 16, while for females, the threshold was 18. The enactment of this legislation was significantly influenced by the landmark case of *Sheela Barse v. Union of India*, which underscored the need for a comprehensive legal framework to protect and address the rights of children in conflict with the law. The judicial proceedings emphasized the critical need for comprehensive legislation to safeguard the rights and welfare of children. While the Juvenile Justice Act of 1986 was a step forward, it was not without its shortcomings. Over time, the limitations of the 1986 Act became evident, prompting its replacement with the Juvenile Justice (Care and Protection of Children) Act of 2000. This updated legislation introduced significant reforms, including the establishment of gender parity by setting a uniform legal age threshold for juveniles. The Juvenile Justice (Care and Protection of Children) Act of 2000 introduced a comprehensive framework aimed at safeguarding, rehabilitating, and supporting minors under the jurisdiction of the juvenile court system. It also promoted innovative strategies for preventing and addressing juvenile delinquency. Aligned with the principles of the 1989 United Nations Convention on the Rights of the Child (UNCRC), the 2000 Act replaced the Juvenile Justice Act of 1986 following India's signing and ratification of the UNCRC in 1992.

A landmark ruling in the case of *Partap Singh v. State of Jharkhand* by the Constitutional Bench of the Supreme Court of India further clarified the legislation. The Court held that the "date of commission of the offense" should serve as the reference point for determining the age of a juvenile. This judgment addressed ambiguities and omissions in the Act related to age determination. Subsequently, the legislation underwent revisions to incorporate the guidance provided by the Supreme Court and resolve these issues effectively. The Juvenile Justice (Care and Protection of Children) Amendment Act of 2006 came into effect on August 22, 2006. This amendment offered hope for individuals over the age of 16 at the time of alleged incidents, as the Juvenile Justice Act of 1986 was still applicable. Additionally, the Juvenile Justice (Care and Protection of Children) Act of 2000 had earlier increased the age threshold for juveniles awaiting trial, raising it from 16 years to 18 years, further aligning with contemporary standards for juvenile justice. The Juvenile Justice (Care and Protection of Children) Amendment Act of 2006 sought to address concerns by incorporating a specific provision in Section 20. However, this legal framework was at times exploited by juveniles, leading to the commission of severe offenses on a broader scale. Perpetrators appeared to have a partial understanding of the legal protections afforded by the amended Act, using it to their advantage in certain cases.

The Juvenile Justice (Care and Protection of Children) Act enacted in the year 2000

The Juvenile Justice (Care and Protection of Children) Act of 2000 reflected a sincere effort by the Indian government to integrate the principles established in various United Nations agreements, including the Convention on the Rights of the Child (CRC), the Beijing Rules, and the 1990 Rules. Enacted by the Supreme Court of India, the Act aimed to address offenses committed by individuals below the age of majority through a legal framework distinct from that applied to adults, emphasizing rehabilitation and protection over punitive measures. The framework of the Juvenile Justice Act prioritizes rehabilitation over the adversarial approach typically used in courts. Successful implementation of this initiative required a significant paradigm shift in the attitudes of those in positions of authority, as their active support was essential for its effectiveness. Without such commitment and backing, achieving the objectives of the Act would have been highly challenging.

In the case of *Jameel v. State of Maharashtra*, the Supreme Court ruled that the appellant's claim regarding the applicability of the Juvenile Justice Act, 2000, was valid, as evidence indicated that the appellant was 16 years old at the time of the offense. However, since the

offense of unnatural intercourse occurred on December 16, 1989, prior to the enactment of the JJ Act, 2000, its provisions were deemed inapplicable in this case. Under the provisions of the Juvenile Justice Act of 1986, a "juvenile" was defined as an individual who had not reached the age of 16 for males and 18 for females. Therefore, the argument for the applicability of the Juvenile Justice Act, 2000, based on the accused being under 18 at the time of the incident, is unconvincing. Since the accused was already over the age of 18 when the JJ Act, 2000, came into effect, its provisions would not apply. Given that the individual was 16 years old at the time of the offense, the Juvenile Justice Act of 2000 is deemed irrelevant in this specific case.

The establishment of a Juvenile Justice Board (JJB) falls under the authority of the state government, which may set up such boards for individual districts or groups of districts. Section 4 of the Juvenile Justice Act, 2000, provides detailed provisions regarding the formation and composition of the JJB. According to Section 5(2), if the Board is not in session, a child involved in delinquent behavior can be presented before a designated member of the Board. As per Section 6(1), the JJB holds exclusive jurisdiction to adjudicate all cases involving juveniles in conflict with the law under the 2000 Act.

The establishment of observation houses in each district or cluster of districts was proposed to provide temporary accommodation for minors involved in legal disputes while investigations are underway. Additionally, the legislation introduced other governing bodies and institutions, such as specialized residential facilities, which categorized minors based on their age, physical and mental well-being, and the nature of their offenses. This approach placed a stronger emphasis on reform and rehabilitation compared to earlier methods.

The Juvenile Justice (Care and Protection of Children) Act of 2015

The Delhi gang rape case of December 16, 2012, widely known as the Nirbhaya case, drew nationwide attention and exposed critical shortcomings in the existing juvenile legislation. The juvenile justice framework faced significant criticism for its perceived inability to effectively deter serious crimes committed by individuals aged 16 to 18, particularly heinous offenses such as rape and murder. This tragic incident sparked widespread scrutiny and condemnation of the legal system, highlighting the urgent need for reforms to address these gaps. In the aftermath of the Nirbhaya case, there was a growing demand to amend existing legislation to allow individuals aged 16 and 17 involved in heinous crimes to be tried as adults. Responding to public outrage, the Indian Parliament enacted the Juvenile Justice (Care and Protection of

Children) Act, 2015. However, the Act's approval was met with considerable controversy, debate, and criticism, particularly from child rights advocates who raised concerns about several provisions within the legislation. The Juvenile Justice (Care and Protection of Children) Act, 2000, was replaced by the current law under discussion. The previous legislation addressed juvenile delinquency in India and permitted individuals aged 16 to 18 involved in serious criminal activities to face adult legal proceedings. Under this framework, Juvenile Justice Boards—consisting of a metropolitan or judicial magistrate and two social workers—were empowered to decide whether an offender should be tried as an adult in a regular court or as a juvenile under the special provisions of the juvenile justice system. The Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption, 1993, was absent from earlier legislation but was incorporated into the recent legal framework. This legislation aimed to streamline and improve the adoption process for children who are orphaned, abandoned, or voluntarily surrendered. It was passed by the Lok Sabha on May 7, 2015, and the Rajya Sabha on December 22, 2015. The bill received presidential assent on December 31, 2015, and came into effect on January 15, 2016. The enactment of the new legislation was driven by India's commitment to fulfilling its obligations under three key international treaties: 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 (commonly known as the Beijing Rules, 1985). Additionally, the legislation references the "Havana Rules, 1990," further emphasizing its alignment with international standards for juvenile justice and the protection of children's rights.

The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021

The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021, focused on introducing changes to the existing Juvenile Justice Act of 2015. It was introduced by the Minister of Women and Child Development, Ms. Smriti Zubin Irani, and garnered widespread support from both the ruling party and the opposition. The bill was successfully passed by the Lok Sabha on March 15, 2021, and subsequently approved by the Rajya Sabha on July 28, 2021, marking a significant step toward refining the legislative framework for juvenile justice in India.

JJ Boards and Child Welfare Committees

The Juvenile Justice Act established Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) to address cases involving children in conflict with the law and those requiring care and protection, respectively. The state government holds the authority to create JJBs for individual districts or groups of districts. Section 4 of the JJ Act, 2000, outlines the provisions for the establishment and composition of these boards. According to Section 5(2), a minor involved in delinquent behavior may be presented before a designated member of the Board if the Board is not in session. Section 6(1) grants the JJB exclusive jurisdiction over all matters concerning minors in violation of the law.

The Act also mandated the creation of observation houses in each district or cluster of districts to temporarily house minors involved in legal conflicts during ongoing inquiries. Additionally, the legislation introduced specialized residential facilities that categorized juveniles based on their age, physical and mental health, and the nature of their offenses.

This approach emphasized rehabilitation and reform, representing a progressive shift from earlier methods of dealing with juvenile delinquency.

Conclusion

In conclusion, India has made notable progress in its juvenile justice and rehabilitation framework, emphasizing the welfare and rights of children. Despite these advancements, several challenges remain, such as raising awareness, addressing overcrowding in facilities, and improving the effectiveness of rehabilitation measures to secure a better future for juvenile offenders. While the laws, declarations, and conventions are meticulously crafted to reflect their purpose, significant gaps persist in their implementation. In cases of regulatory breaches, the stipulated guidelines are often overlooked or inadequately enforced. Although public advocacy for human rights, particularly for individuals accused or convicted, is prevalent, fewer individuals actively champion the welfare of the younger generation, who are recognized as the nation's future. The legal system places greater focus on protecting the rights of the accused and investigating their human rights violations, often neglecting the infringement on the fundamental rights of minors.

Documented cases before the Honorable High Court, particularly concerning child labor and

bonded labor, highlight judicial attention in resolving such issues. Judges have shown dedication by issuing orders, providing directives, and ensuring the conclusion of proceedings. However, a more robust and consistent effort is required to fully address the gaps in protecting and advancing the rights of children in India.

The efficacy of religion and education in the rehabilitation of offenders remains an important area of study. Many individuals involved in wrongdoing possess strong educational backgrounds and spiritual convictions, highlighting the need to understand their role in reformative efforts. Effective rehabilitation depends on the collaborative engagement of non-governmental organizations (NGOs), volunteer groups, and the government. To strengthen this collaboration, it is essential for the government to create policies that provide financial support and other incentives to NGOs working for the welfare and development of young individuals. We must shift our mindset and prioritize those who require our care, protection, and guidance. Juveniles, often unaware of their rights and responsibilities, need access to resources like healthcare, financial stability, and education to secure a prosperous future. A collective effort to raise awareness and provide these resources is crucial.

Suggestions for Juvenile Justice Reforms:

1. **Mental Condition of the Minor:** Address the psychological needs of juveniles to foster effective rehabilitation.
2. **Social Responsibilities:** Encourage the integration of juveniles into society with a focus on accountability and growth.
3. **Adaptation to Change:** Ensure that reforms and practices align with evolving societal norms and challenges.
4. **Practical Enforcement of Legislation:** Emphasize the actual implementation of laws and policies to ensure their intended impact.
5. **Creating Opportunities:** Develop a society where children are given the chance to grow, learn, and thrive.
6. **Awareness and Education Programs:** Educate both parents and children about rights, responsibilities, and the consequences of delinquency.

7. Understanding the Causes of Juvenile Offenses: Focus on the root causes of juvenile crime to devise preventive strategies.
8. Collaboration Among Stakeholders: Foster cooperation between the government, NGOs, and society to address the needs of juvenile offenders effectively.

The ultimate goal of justice is not to punish the individual but to remove crime from society while preserving life. Harsh punishments for juvenile offenders indicate a societal failure to channel their potential positively. Positive criminology, with its emphasis on restorative justice, has proven successful in rehabilitation. Faith in the judiciary, combined with proactive measures to address the causes and prevention of juvenile delinquency, can pave the way for a better, more inclusive society.

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