

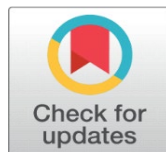
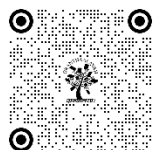
THE PATH OF JUVENILE JUSTICE SYSTEM WITH RESPECT TO JUVENILES IN INDIA

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ABSTRACT

Children are the bright future of the nation. If they are not nurtured well then, the future of the nation will be at risk. The children need support and protection. They become victims of various crimes and also, they get in bad hands and lose their future. They are to be taken care and also provided with good environment, education, guidance. They have to be prepared for the challenges in future.

In protecting the children, the government plays a very important role. It is the duty of the nation in ensuring that the rights of the children are well protected. The Indian legal system through the enactment Juvenile Justice Act took a great step for dealing with the child in conflict with law and the child in need of care and protection. There are various other laws with regards to the proper development, growth and also reform and rehabilitation of the children.

Keywords: Juvenile, Conflict, Crimes, Act, Protection, Rehabilitation

1. INTRODUCTION

The juvenile justice system in India is a critical component of the nation's legal framework that deals with minors who have come into conflict with the law. It is a system designed to balance the need for justice with the recognition that juveniles are still developing and should be rehabilitated rather than punished. However, like many legal systems around the world, India's juvenile justice system faces numerous challenges and issues that must be addressed to ensure the well-being and proper rehabilitation of juvenile offenders. In this essay, we will delve into the path of the juvenile justice system in India and explore how it should address the problems facing juvenile offenders.

The concept of juvenile justice is rooted in the idea that children and adolescents are inherently different from adults. They are in a stage of physical, emotional, and psychological development, and as a society, we recognize that their capacity for understanding the consequences of their actions and making informed decisions is not fully developed.

Therefore, when juveniles commit offenses, the focus should not solely be on punishment, but on rehabilitation and reintegration into society.

1.1. HISTORICAL BACKGROUND OF JUVENILE JUSTICE IN INDIA

The concept of juvenile justice in India has evolved over the years. Before the enactment of dedicated legislation for juvenile justice, minors who came into conflict with the law were often treated in a manner similar to adult offenders. However, recognizing the need for a separate and more humane approach to dealing with juvenile offenders, India introduced its first dedicated juvenile justice law in 1986, known as the Juvenile Justice Act, 1986.

The Juvenile Justice Act, 1986, marked a significant shift in the approach towards juvenile offenders. It emphasized the principle of reform and rehabilitation rather than punishment. The Act established Juvenile Welfare Boards and Juvenile Courts to handle cases involving minors. It also laid down provisions for the establishment of observation homes, special homes, and juvenile homes to house and rehabilitate juvenile offenders.

Subsequent amendments to the Juvenile Justice Act, such as the Juvenile Justice (Care and Protection of Children) Act, 2000, and the Juvenile Justice (Care and Protection of Children) Act, 2015, further refined the legal framework for dealing with juvenile offenders. These amendments expanded the age range for juveniles, strengthened the provisions for their care and protection, and introduced measures to ensure their rights and well-being.

1.2. CHALLENGES IN THE JUVENILE JUSTICE SYSTEM IN INDIA

While India's juvenile justice system has made significant progress over the years, it still faces several challenges and problems that need to be addressed. Some of these challenges include:

Lack of Adequate Infrastructure: One of the major issues facing the juvenile justice system in India is the lack of adequate infrastructure, including observation homes, special homes, and rehabilitation centers. Many states struggle to provide proper facilities for the care and rehabilitation of juvenile offenders.

Delayed Justice: The legal process for juvenile offenders often moves slowly, leading to delayed justice. This can have a negative impact on the rehabilitation and reintegration of juveniles into society.

Inadequate Legal Aid: Many juvenile offenders come from economically disadvantaged backgrounds and may not have access to proper legal representation. Ensuring that juveniles have access to legal aid and representation is essential for a fair and just system.

Overcrowding and Poor Conditions: Observation homes and other facilities for juvenile offenders are often overcrowded and may have poor living conditions. This can lead to an unhealthy environment that hinders rehabilitation efforts.

Stigmatization: Juvenile offenders often face stigmatization and discrimination, which can make it difficult for them to reintegrate into society after serving their sentences.

Lack of Skill Development Programs: While rehabilitation is a key aspect of the juvenile justice system, there is a lack of comprehensive skill development programs that can help juvenile offenders acquire the necessary skills for a productive and crime-free life.

Disproportionate Punishment: In some cases, the juvenile justice system may be seen as being too lenient or too harsh in its approach, leading to public debate and controversy.

1.3. ADDRESSING THE PROBLEMS OF JUVENILE JUSTICE IN INDIA

To address the problems facing the juvenile justice system in India, several key steps and reforms can be considered:

Strengthening Infrastructure: There is a need to invest in the creation of more observation homes, special homes, and rehabilitation centers. These facilities should be well-maintained and adequately staffed to provide proper care and rehabilitation for juvenile offenders.

Streamlining Legal Procedures: Efforts should be made to streamline legal procedures and reduce delays in the juvenile justice system. This could include setting time limits for various stages of the legal process.

Ensuring Legal Aid: Every juvenile offender should have access to legal aid and representation to ensure a fair and just legal process. This can help protect their rights and interests.

Improving Living Conditions: Observation homes and rehabilitation centers should maintain high standards of living conditions to create a positive and healthy environment for juveniles.

Reducing Stigmatization: Public awareness campaigns and education programs can help reduce stigmatization and discrimination against juvenile offenders, making it easier for them to reintegrate into society.

Skill Development Programs: The juvenile justice system should focus on providing skill development and vocational training programs to help juveniles acquire the skills they need to lead productive lives.

Restorative Justice: Restorative justice practices can be integrated into the juvenile justice system to involve victims, offenders, and the community in the resolution of conflicts and the rehabilitation of juvenile offenders.

Sensitizing Stakeholders: Training and sensitization programs should be conducted for all stakeholders involved in the juvenile justice system, including law enforcement officers, judges, lawyers, and social workers, to ensure a child-centric approach.

Research and Evaluation: Continuous research and evaluation of the effectiveness of juvenile justice programs and policies should be carried out to identify areas of improvement and inform evidence-based decision-making.

The path of the juvenile justice system in India has come a long way since its inception in 1986. It has made significant strides in recognizing the unique needs of juvenile offenders and shifting the focus from punishment to rehabilitation. However, there are still several challenges and problems that need to be addressed to ensure the proper care and protection of juvenile offenders.

To address these challenges, it is imperative to strengthen the infrastructure, streamline legal procedures, ensure access to legal aid, improve living conditions, reduce stigmatization, and provide skill development programs for juvenile offenders. Additionally, the incorporation of restorative justice principles and continuous research and evaluation can further enhance the juvenile justice system's effectiveness.

Ultimately, the goal of the juvenile justice system in India should be to rehabilitate and reintegrate juvenile offenders into society as responsible and law-abiding citizens. This can only be achieved through a comprehensive and child-centric approach that prioritizes the well-being and development of young individuals who have come into conflict with the law.

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

“Children are the world’s most valuable resource and its best hope for the future” – John F. Kennedy-Children are the future of the nation. Children are the weaker section of the society. There is a need to protect the children. They should be getting the proper guidance and care to become a responsible citizen of the nation.

The first legislation in India to address the child in conflict with law were the The Apprentices Act 1850, it provided that children between the ages of 10-18 convicted in courts to be provided vocational training as part of their rehabilitation process. Then the Reformatory Schools Act 1897 also provided that the children upto the age of 15 be sent to reformatory school. After Independence the Children Act 1960 was enacted for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union territories. In the year of 1986, the Juvenile Justice Act was passed which was applicable to the whole India. In 1992, India ratified the United Nations Convention on the Rights of the Child, 1989. The Juvenile Justice Act 1986 was repealed in 2000 to provide necessary amendments to adapt the standards of the convention. The Juvenile Justice (Care and Protection of Children) Act 2015 was passed and it replaced the Juvenile Justice Act 2000.

Who is a Child?

The Article 1 of the United Nations Convention on the Rights of the Child defines Child as every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

The Section 2(ii) of The Child Labour (Protection and Regulation) Act, 1986 states that the child is a person who has not completed his fourteenth year of age.

The Section 2(b) of The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 defines Child as a person who has not completed fourteen years of age.

The Prohibitions of Child Marriage Act, 2006 defines child as a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age.

The Section 2(d) of The Protection of Children from sexual offences Act, 2012 defines child as any person below the age of eighteen years.

The Section 2(12) of The Juvenile Justice (Care and Protection of Children) Act, 2015 defines child as a person who has not completed eighteen years of age.

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

The word 'Juvenile' has been derived from latin term 'juvenis' meaning 'young'. The section 2(35) states that juvenile means a child below the age of eighteen years. In general a juvenile is a child or young person who is not yet old enough to be regarded as an adult.

The objective of the Juvenile Justice (Care and Protection of Children) Act, 2015 is to strengthen and amend the law relating to children who are alleged to be in conflict with the law and children who are in need of care and protection. It contains ten chapters and 112 sections.

The act categorises the children in two categories, one the child in conflict with law and the other is the child in need of care and protection. The Section 2(13) defines the child in conflict with law as a child who is alleged or found to have committed an offence and has not completed eighteen years of age on the date of commission of such offence.

2.2. THE SALIENT FEATURES OF THE ACT:

- 1) Children under 18 are treated equally, with the exception of those aged 16-18, who can be tried as adults for severe crimes.
- 2) If a kid between the ages of 16 and 18 commits a lesser violation (a serious offence), he may be tried as an adult if arrested after turning 21.
- 3) A serious offence carries a minimum of seven years in jail.
- 4) A serious offence is punishable by three to seven years in prison, whereas a petty offence is punishable by three years.
- 5) Any youngster who is determined to have committed a crime will henceforth be sent for a preliminary assessment for three months, rather than one month.
- 6) A clarification is added that the preliminary assessment is not a trial, but to assess the child's capacity to commit the crime.
- 7) A new section on fair trial is inserted, which states that the assessment will consider the child's special requirements in accordance with the principle of fair trial in a child-friendly setting.
- 8) The child will be exempt from any disqualification resulting from a conviction under the Act.
- 9) Except for egregious offences, the records of any conviction will be deleted once the appeal process has expired.
- 10) No youngster can be sentenced to death or life in prison.
- 11) It requires each district to establish Juvenile Justice Boards (JJBs) consisting of a metropolitan magistrate and two social workers, one of whom is a woman.
- 12) The JJBS will conduct a preliminary inquiry of a crime committed by a child within a specified time period and decides whether he should be sent to rehabilitation centre or sent to a children's court to be tried as an adult. The board can take the help of psychologists and psycho-social workers and other experts to take the decision.
- A Children's court is a special court set up under the Commissions for Protection of Child Rights Act, 2005, or a special court under the Protection of Children from Sexual Offences Act, 2012, In absence of such courts, a juvenile can be tried in a Sessions Court that has jurisdiction to try offences under the Act.
- 13) Child Welfare Committees (CWCs) should be set up in each district with a chairperson and four other members who have experience in dealing with children. One of the four member must be a women.

14) The committee decides whether an abandoned child should be sent to care home or put up for adoption or foster care.

15) Provisions regarding Adoption

- The Central Adoption Resource Agency will frame rules and regulations for adoption of orphaned children.
- Inter-country adoption is allowed when no Indian adoptive parents are available within 30 days of child being declared free for adoption.
- Adoptive parents should be financially and physically sound.
- A single or divorced person may adopt a child. A single male not adopt a girl child. Disabled children will be given priority may for adoption.

16) Children in need of care and protection can allowed to be placed in foster care based on the orders of the CWC. The selection of the foster family is based on the family's ability, intent, capacity and prior experience of taking care of children.

17) Regarding punishments for crimes against children

Buying and selling of a child attracts imprisonment up to five years.

Giving an intoxicating or narcotic substance to a child attracts imprisonment up to seven years.

Institutions for child-care must be registered.

Corporal punishment of children in child-care institutions is also punishable

e. A person giving alcohol or drugs to a child shall be punished with 7 years imprison and/or 100,000 fine. Corporal punishment will be punishable by 50,000 or 3 years of imprisonment.

f. A person selling a child will be fine with 100,000 and imprisoned for 5 years.

g. Non-disclosure of identity of juvenile offenders by media.

The major amendment in the Juvenile Justice Act was brought after the Nirbhaya Case ie, Mukesh v. State NCT of Delhi. According to Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, if a child is alleged to have committed a heinous offence then the board shall decide with regard to his mental and physical capacity to commit such offence whether the child should be proceeded for trial as adult or juvenile.

3. PROVISIONS IN INDIAN CONSTITUTION RELATING TO JUVENILE JUSTICE

The Part III and IV of the Indian Constitution deals with Fundamental Rights and Directive Principles respectively provides certain provisions for children which include

Article 15(3) permits the State to make special provisions for children and women.

Article 21A provides right to education to all the children of age 6 to 14 years.

Article 23 prohibits the traffic of human beings and forced labour.

Article 24 prohibits employment of children below 14 years in factories, mines and other hazardous occupations.

Article 39(c) directs the state to safeguard the tender age of children from entering into unsuited jobs to their age.

Article 39(f) directs the state to give opportunities and facilitates for the healthy development of children and protect their childhood.

Article 45 directs the state to provide early childhood care and education to children below the age of six years.

Article 47 states that it is the duty of the State to raise the level of nutrition and the standard of living and to improve public health.

Article 51(k) states that it is the fundamental duty of the parents or guardians to provide opportunities for education to their child between the age of six and fourteen years.

Other legislations relating to Juvenile Justice

Section 82 of Indian Penal Code provides that nothing is a offence which is done by a child under seven years of age.

Section 83 of Indian Penal Code provides nothing is an offence which is done by a child above seven years of age and under twelve of immature understanding.

Section 27 of Criminal Procedure Code provides any offence not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of sixteen years and may be tried by the Court of a Chief Judicial Magistrate.

Section 437 of Criminal Procedure Code provides that bail may be taken in case of non-bailable offence if such person is under the age of sixteen years or is a woman or is sick.

Section 9 of Hindu Adoptions and Maintenance Act, 1956 states about persons capable of giving in adoption.

Section 13 of the Hindu Minority and Guardianship Act, 1956 provides that welfare of minor to be paramount consideration.

The Child Labour (Prohibition and Regulation) Act 1986 prohibits the engagement of children in certain work of children in certain other employments and to regulate the conditions of work of children in certain other employments.

The Probation of offenders Act, 1958 provides the juvenile offender is given a chance to improve and not sent to jail so as to adopt a reformatory approach towards crime.

The Immoral Traffic (Prevention) Act, 1986 prevents exploitation and immoral trafficking of women and children.

The Right to Education Act, 2009 makes education a fundamental right of every child between the age of 6 and 14.

In *Sheela Barse v Union of India*, AIR 1986 SC173 the Supreme Court issued directions to the state government to set up necessary observation homes where children accused of an offence could lodged, pending investigation and trial will be expedited by juvenile courts.

In *Vishal Jeet v Union of India*, AIR 1997 SC 699, the Supreme Court issued appropriate directions on a PIL to the state Governments and all Union Territories for eradicating the evil of child prostitution and for evolving programmes for the care, protection, treatment, development and rehabilitation of the young fallen victims.

In *Sheela Barse v. Secretary, children Aid Society*, AIR 1987 SC656, the Supreme Court commented upon setting up dedicated juvenile courts and special juvenile court officials and the proper provision of care and protection of children in observation Homes.

In *M.C. Mehta v State of Tamil Nadu*, (1999) 6 SCC 591, Supreme Court pronounced upon the constitutional perspective of abolition of Child labor and issued appropriate guide lines to the Government of India with respect to compulsory education, health, nutrition, etc of the child labourers.

In *Sakshi v Union of India*, AIR 199 SC 1412, Supreme Court directed the government or the Law commission to conduct a study and submit a report on the means of curbing child abuse.[^][[2]]

In *Gopinath Ghosh State of West Bengal*, the plea that the accused was a minor was raised for the first time before the Supreme Court. The Supreme Court, observed that in view of the underlying intent and beneficial provisions of the West Bengal Children Act, 1959, read with clause (f) of Article 39 of the Constitution. As per the direction of the Supreme Court the sessions judge after hearing both the sides, certified that the accused was aged between 16 and 17 year. Since the West Bengal Children Act, 1959, defined "child" as a person below 18 years the Supreme Court held that the accused was entitled to protection under the Act accordingly set aside the conviction of the accused.

In *R. v. Mariamutha*, 19 CrLJ.392 (Mad.) a girl aged about 10 years picked up a silver button and gave it to her mother. The girl was not held liable for theft because the circumstances did not disclose that she had attained sufficient maturity of understanding to judge the nature of her act.

Certain states have made separate legislations for their states. These can be enumerated as follows:

- 1) Bombay Child Act, 1948
- 2) Uttar Pradesh Child Act, 1951
- 3) Rajasthan Child Act, 1970
- 4) Assam Child Act, 1971
- 5) Kerala Child Act, 1973
- 6) Haryana Child Act, 1974
- 7) Madhya Pradesh Child Act, 1979
- 8) Bihar Child Law, 1982, etc.

9) Bihar Juvenile Justice (Care and Protection of Children) Rules, 2010.

10) Bihar Child Marriage Prohibition Rules 2010.

In recent years, children and their problems have started to attract the attention of the state and society, but the problem is so great that we must say that what has been done so far has not been enough. Without the support of today's children, the future of the country will be dark. It is the duty of every generation to raise children to be citizens of tomorrow. The children of today are the duty of every generation to raise children to be good citizens of tomorrow. Therefore, every society should ensure that children receive the necessary care, grow up in a good environment, and provide adequate education, training and guidance so that they can reach their rightful place in society.

4. FUTURE PATH TO PROTECT JUVENILES IN INDIA: STRENGTHENING THE JUVENILE JUSTICE SYSTEM

The protection of juveniles in India is a paramount concern that demands continuous attention and improvement. The juvenile justice system in the country has made significant progress over the years, but there remains a critical need for further reforms and enhancements to better address the problems facing juvenile offenders. In this essay, we will explore a future path to protect juveniles in India, focusing on how the juvenile justice system can be strengthened to ensure the well-being and rehabilitation of young offenders.

4.1. THE CHALLENGES FACED BY JUVENILE JUSTICE IN INDIA:

Before delving into the future path, it is crucial to understand the ongoing challenges faced by the juvenile justice system in India. These challenges include:

Infrastructure Deficiencies: Many states in India lack adequate infrastructure for juvenile offenders. Observation homes, special homes, and rehabilitation centers often suffer from overcrowding and poor conditions, hindering effective rehabilitation efforts.

Legal Delays: The legal process for juvenile offenders can be slow, leading to delayed justice. This can negatively impact rehabilitation and reintegration into society.

Lack of Legal Aid: A significant number of juvenile offenders come from economically disadvantaged backgrounds and may not have access to proper legal representation. Ensuring access to legal aid is essential for a fair and just system.

Stigmatization: Juvenile offenders often face stigmatization and discrimination, making it challenging for them to reintegrate into society after serving their sentences.

Inadequate Skill Development Programs: While rehabilitation is a central aspect of the juvenile justice system, there is a lack of comprehensive skill development programs to equip juvenile offenders with the skills necessary for a productive and crime-free life.

Disproportionate Punishment: The system sometimes faces criticism for being either too lenient or too harsh in its approach, leading to public debate and controversy.

4.2. FUTURE PATH TO PROTECT JUVENILES IN INDIA:

To address these challenges and protect juveniles in India effectively, a comprehensive approach is required. The following strategies represent a potential future path for strengthening the juvenile justice system:

Invest in Infrastructure Development:

To address the deficiencies in infrastructure, there should be a substantial investment in the creation and maintenance of observation homes, special homes, and rehabilitation centers. These facilities must adhere to strict standards, ensuring a safe and supportive environment for juvenile offenders.

Streamline Legal Procedures:

Legal procedures for juvenile offenders should be streamlined to minimize delays. This can be achieved by setting time limits for various stages of the legal process, reducing the burden on the courts, and encouraging alternative dispute resolution mechanisms.

Ensure Access to Legal Aid:

Every juvenile offender must have access to legal aid and representation. This can be achieved through legal aid clinics, partnerships with non-governmental organizations, and the appointment of dedicated juvenile defense attorneys.

Improve Living Conditions:

Observation homes and rehabilitation centers must provide high-quality living conditions. This includes proper nutrition, access to education, mental health services, and recreational activities to support the overall development of juveniles.

Combat Stigmatization:

Public awareness campaigns and education programs should be initiated to combat stigmatization and discrimination against juvenile offenders. Society should be sensitized to the importance of giving young individuals a second chance.

Enhance Skill Development Programs:

Skill development and vocational training programs should be an integral part of the rehabilitation process. These programs should equip juveniles with practical skills and knowledge that can help them secure employment and lead productive lives.

Embrace Restorative Justice:

Restorative justice practices should be integrated into the juvenile justice system. These practices involve victims, offenders, and the community in the resolution of conflicts, emphasizing reconciliation, restitution, and rehabilitation.

Sensitize Stakeholders:

Continuous training and sensitization programs should be conducted for all stakeholders involved in the juvenile justice system, including law enforcement officers, judges, lawyers, and social workers. This ensures a child-centric approach and adherence to international standards.

4.3. RESEARCH AND EVALUATION

To make informed decisions and track progress, continuous research and evaluation of the effectiveness of juvenile justice programs and policies should be carried out. Data-driven insights can identify areas of improvement and help in evidence-based decision-making.

International Collaboration:

India can benefit from collaborating with international organizations and countries with advanced juvenile justice systems. Sharing best practices and learning from successful models can accelerate reforms and improvements.

Legislative Reforms:

Periodic reviews of existing legislation are essential to adapt to changing circumstances and emerging challenges. Legislative reforms should prioritize the rights and welfare of juvenile offenders.

Community Involvement:

Engaging local communities in the rehabilitation and reintegration process can foster support networks and reduce the risk of reoffending. Community-based programs can provide guidance and mentorship to juvenile offenders.

5. CONCLUSION

We may draw the conclusion from the explanation above that cherished ideals by themselves cannot advance society. The importance of real-world experience must be emphasized. The lack of coordination and control among the many authorities is a basic problem with this Act. Police officers, attorneys, and judicial officials are among the many people involved in the administration of this Act who are not familiar with the idea and philosophy of the juvenile justice system. The legislation must be effectively applied in order to have the desired effects. The need for sufficient space and chances for children's development and reform must be pressed upon society. By interpreting the terms of several

legislation to give the best possible service, the legal system has played an admirable role in ensuring that the juvenile justice system is correctly implemented.

The path to protecting juveniles in India lies in a comprehensive and holistic approach to strengthen the juvenile justice system. By addressing infrastructure deficiencies, streamlining legal procedures, ensuring access to legal aid, improving living conditions, combating stigmatization, enhancing skill development programs, embracing restorative justice, sensitizing stakeholders, conducting research and evaluation, and engaging in international collaboration, India can make significant strides in safeguarding the rights and well-being of juvenile offenders.

It is imperative that the juvenile justice system evolves to meet the changing needs of young offenders and aligns itself with international standards and best practices. By doing so, India can create a future where juveniles receive the care, support, and opportunities they need to reintegrate into society as responsible and law-abiding citizens. Protecting juveniles is not only a moral imperative but also a crucial step in building a just and compassionate society.

CONFLICT OF INTERESTS

None.

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None.

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