BLOGS

Juvenile Justice System in India: Evolution and Defects

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Introduction

The Juvenile Justice System in India constitutes a legal structure designed to safeguard the well-being and rights of children while furnishing them with suitable care and safeguarding. It operates on the foundation of rejuvenation and transformation rather than punitive measures.

This system is controlled by a range of laws and directives that are intended to guarantee the welfare and advancement of young offenders. This post will explore the Juvenile Justice System in India, its pertinent legislations, and illustrative legal cases.

Evolution of the Juvenile Justice System in India

The Juvenile Justice System in India has witnessed significant evolutionary stages throughout its history, reflecting a growing understanding of the nuanced needs of young offenders.

- In 1920, a pivotal step was taken with the establishment of the first juvenile court in Bombay (now Mumbai) under the ambit of the Children Act of 1920. This marked a recognition that individuals below 16 years required distinct safeguarding and nurturing, culminating in the establishment of a separate judicial framework dedicated to addressing juvenile transgressions.
- The watershed moment arrived in 1986, when the Juvenile Justice Act replaced the Children Act of 1920. This transformative legislation acknowledged that juveniles in conflict with the law weren’t conventional criminals but rather individuals in need of both care and protection.

The novel concept of a Juvenile Welfare Board emerged to oversee the execution of the Act, alongside the creation of observation homes to provide provisional shelter to youngsters awaiting legal proceedings.

- Another pivotal amendment occurred in 2000, aligning the Juvenile Justice Act with the principles of the United Nations Convention on the Rights of the Child. This revision raised the age of juvenile delinquency from 16 to 18 years, emphasizing rehabilitation and the seamless reintegration of juvenile offenders into society.
- The year 2015 had another significant amendment following a high-profile case involving a juvenile perpetrator implicated in the brutal rape and murder of a young woman in Delhi in 2012 (known popularly as the Nirbhaya case). This amendment introduced a nuanced provision: juveniles aged 16 to 18 could be tried as adults for heinous crimes like rape and murder. Nonetheless, the overarching idea of rehabilitation and reintegration stayed for all other offenses.
- The 2021 amendment shows India's dedication to making the juvenile justice system stronger. This amendment brought in provisions for foster care and the adoption of children in dire need of care and protection. Additionally, it bolstered measures intended for the holistic rehabilitation and social reintegration of juvenile wrongdoers. Moreover, it elevated the roles of both the Juvenile Justice Boards and Child Welfare Committees in the decision-making process.

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

The Juvenile Justice (Care and Protection of Children) Act, 2015 serves as the main legal framework governing India's juvenile justice system, taking over from the Juvenile Justice (Care and Protection of Children) Act, 2000. Encompassing the Juvenile Justice System in India, this act outlines provisions for the welfare, security, and care of children requiring protection as well as those involved in legal conflicts. It also establishes dedicated units such as juvenile police divisions, juvenile justice boards, and child welfare committees.

This legislation defines a juvenile as an individual who hasn't reached the age of 18. Moreover, it mandates the establishment of observation homes, special homes, and safe locations aimed at catering to the well-being and safety of children.

Integral to the act is the formation of a Juvenile Justice Board in each district. Tasked with the rehabilitation, transformation, and social integration of young offenders, this board holds the authority to determine various outcomes for them. These outcomes encompass options like releasing the juvenile on probation, assigning community service, or ordering placement in a special home for a span not surpassing three years.

Definition of Child and Juvenile

The Juvenile Justice Act of 2015, within the framework of the Juvenile Justice System in India, provides distinct definitions for a child and a juvenile. Here are the definitions as per the Juvenile Justice Act, 2015:

- As per the Juvenile Justice Act, 2015, a child is defined as an individual who has not yet reached the age of eighteen years. However, it's important to note that the Act draws a differentiation between children who are engaged in legal conflicts and those who require care and protection.
- Conversely, a juvenile is referred to as an individual under the age of eighteen years who stands accused of committing an offense.
- The Juvenile Justice Act of 2015 acknowledges that juveniles who find themselves in conflict with the law necessitate specialized care and safeguarding. Thus, a separate juvenile justice system is in place to address their distinct needs.

Furthermore, other legislations within the Juvenile Justice System in India define a child and a juvenile differently. For instance, the Indian Penal Code (IPC) designates a child as an individual below the age of twelve years.

On the other hand, the Protection of Children from Sexual Offences (POCSO) Act of 2012 classifies a child as someone under eighteen years of age. The POCSO Act also aligns with the Juvenile Justice Act in defining a juvenile as an individual who has not yet turned eighteen.

It's noteworthy that the definitions of a child and a juvenile can vary based on the specific context and objectives of the respective laws operating within the Juvenile Justice System in India.

Factors Leading Juveniles into Conflict with the Law

A comprehensive examination of the regulations governing juvenile justice would be incomplete without delving into the underlying factors and circumstances that drive juveniles to engage in criminal activities. In 2018, the National Crime Records Bureau (NCRB) gathered data on the educational and familial backgrounds of apprehended juveniles, shedding light on the prevalent conditions. Among the cases documented, a significant 20,099 instances involved children who were either illiterate or possessed only primary-level education, resided with guardians or were homeless.

Research underscores the correlation between a hostile domestic environment or ineffective parenting and the development of delinquent tendencies among children. Likewise, youngsters from broken or dysfunctional families exhibit a heightened propensity for delinquent behavior.

The influence of substance abuse and psychiatric disorders has also been shown to contribute to deviant conduct. Particularly in the context of India, weak community ties have been identified as a potential catalyst for delinquency, often manifesting through street brawls, hooliganism, and minor thefts.

During the deliberation of the Bill in the Lok Sabha, Shashi Tharoor, a member of the Congress party, emphasized that “a majority of children in conflict with the law come from illiterate and poor families.” He critiqued the approach of punishing these children rather than providing them with education.

Tharoor further highlighted how this approach contradicts international standards such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985, and the Beijing Rules, both of which call for different treatment of child offenders compared to adults.

Evidently, a combination of social, environmental, economic, and psychological factors contribute to juvenile delinquency. Acknowledging this, the Act introduces a preventive measure by incorporating a distinct category of “children in need of care and protection.” This group encompasses children without homes, those living on the streets, child laborers, orphans, victims of abuse or trafficking, and those suffering from mental illnesses. These children are deemed particularly susceptible to committing crimes due to their vulnerable circumstances.

Limitations and Gaps in the Juvenile Justice Act, 2015

The introduction of the Juvenile Justice Act in 2015 emerged against a backdrop of public outcry, following a case in which a juvenile offender in the 2012 Delhi gang rape incident received a

perceived lenient sentence of three years in a reform home. This pivotal legislation aimed to address shortcomings in the existing legal framework, yet several limitations and gaps within it warrant examination.

The Statement of Objects and Reasons of the Bill, which later became the Act, highlighted the necessity for changes due to delays in decision-making processes by Child Welfare Committees and Juvenile Justice Boards, an elevated caseload, instances of abuse within care institutions, inadequate facilities, and substandard care and rehabilitation measures. It also pointed to an alleged rise in crimes committed by juveniles aged 16 to 18, particularly those classified as heinous offenses.

However, a Review Committee convened by the Parliamentary Standing Committee, composed of civil society members, experts, and academicians, urged caution against a simplistic interpretation of data from the National Crime Records Bureau suggesting such an escalation. The Committee noted that the percentage of juvenile crimes in the total number of crimes in India remained exceptionally low, ranging from 1.0% to 1.2% between 2008 and 2013.

Furthermore, only about 7% of juvenile cases involved severe offenses like murder and rape. The Committee highlighted that the data included instances where children were falsely apprehended, and it wasn't indicative of actual convictions and case dispositions.

The Committee also emphasized that the existing 2000 Act already contained provisions to address serious crimes committed by children between 16 and 18 years old. These provisions offered various dispositions, promoting reparation, healing, and reformation, including admonition, community service, fines, probation, and group counseling.

The Act's procedures for conducting preliminary inquiries by Juvenile Justice Boards faced criticism for being arbitrary and contradictory to the principle of "presumption of innocence" for children up to 18 years old. Moreover, concerns were raised about the expertise and sensitivity of Board members in conducting such inquiries without formal training in child psychology.

Despite these concerns, it was observed that the problems didn't stem from the previous Act's provisions, but rather from the implementation of those provisions. Care institutions mandated by the 2000 Act were either absent or non-functional in several states. Even when operational, these institutions faced challenges due to insufficient funding, inadequate training, and a lack of individual care plans. This highlighted the need to improve existing infrastructure and

institutional capacity for the reformation of juvenile offenders, instead of focusing solely on punitive responses.

Conclusion

In conclusion, while the Juvenile Justice Act of 2015 aimed to address deficiencies in the juvenile justice system, it faced limitations such as overlooking existing provisions, a disproportionate focus on punitive measures, and challenges in implementation. The broader need for comprehensive reform in infrastructure and institutional capacity remains critical to fostering reformation and rehabilitation among juveniles in conflict with the law.