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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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THE JUVENILE JUSTICE SYSTEM IN INDIA: REFORMS AND CHALLENGES

AUTHORED BY - MAN MOHAN PANDEY

Introduction

The need to address juvenile delinquency with a rehabilitative and reformatory approach rather than a punitive one has led to a significant evolution of India's juvenile justice (JJ) system over time. The fundamental tenet of juvenile justice is that children ought to be given the chance to be corrected and reintegrated into society because of their age and immaturity. International agreements such as the 1989 United Nations Convention on the Rights of the Child (UNCRC), which places a strong emphasis on the child's best interests, have a significant influence on India's juvenile justice system. But events like the 2012 Nirbhaya gangrape case, in which a minor was among the accused, caused a national uproar and ultimately forced a reconsideration of how juveniles are treated by the law, particularly in cases of heinous crimes. This blog examines the significant legal changes, pressing issues, and pertinent court rulings that influence India's juvenile justice system.

India's Juvenile Justice Legal Framework

1. Historical Context

The Juvenile Justice Act of 1986¹, India's first significant juvenile justice law sought to protect, care for, and rehabilitate neglected or delinquent youth. To better conform to international norms, India replaced the 1986 Act with the Juvenile Justice (Care and Protection of Children) Act, 2000, following its ratification of the UNCRC in 1992.

2. The 2015 Juvenile Justice (Care and Protection of Children) Act ²

The Juvenile Justice (Care and Protection of Children) Act, 2015, was passed by Parliament in response to growing concerns about the rise in juvenile crime, particularly the 2012 Delhi gang rape case. Among the Act's salient features are:

Definition of Juvenile: A child under the age of eighteen is considered a juvenile.

Juvenile Trials for Serious Offences: Juveniles between the ages of 16 and 18 may

¹ The Juvenile Justice Act of 1986

² Juvenile Justice (Care and Protection of Children) Act, 2015

be tried as adults for heinous offences (those carrying a sentence of more than seven years in prison) under Section 15 of the 2015 Act, provided that the Juvenile Justice Board (JJB) has conducted an evaluation.

Juvenile Justice Boards (JJBs): These are quasi-judicial organisations that decide whether to try a minor as an adult or as a child. ³

Child Welfare Committees (CWCs): Established to address the needs of children who require protection and care.

Foster care and adoption: The Central Adoption Resource Authority (CARA) facilitates adoption under the Act.

Emphasis on Rehabilitation: Through observation homes, counselling, education, and vocational training, the Act places a higher priority on rehabilitation than retaliation.

Significant Judicial Pronouncements

1. Sheela Barse v. Union of India (1986 AIR 1773)⁴

The predicament of children incarcerated was the subject of this historic case. The Supreme Court ordered states to establish separate juvenile homes and declared that children should never be housed in jails.

2. Jaya Mala v. Home Secretary, Government of Jammu & Kashmir (1982 AIR 1297)⁵

The Court ruled that in the absence of documentary proof of age, the benefit of doubt regarding age should be given to the accused, presuming them to be juveniles.

3. Salil Bali v. Union of India [(2013) 7 SCC 705]⁶

The constitutionality of the JJ Act of 2000 was challenged, particularly regarding its age limit. Emphasizing the importance of rehabilitation over punishment and the scientific insights into juvenile psychology, the Supreme Court affirmed the validity of the Act.

4. Mukesh v. State (NCT of Delhi) (Nirbhaya Case), (2017) 6 SCC 1⁷

Despite the fact that one of the defendants was a minor, the JJ Act of 2000 prohibited the court from trying him as an adult due to legal constraints. The 2015 Act was passed as a result of the intense criticism this received.

³ https://en.wikipedia.org/wiki/Juvenile_Justice_Board

⁴ Sheela Barse v. Union of India (1986 AIR 1773)

⁵ Jaya Mala v. Home Secretary, Government of Jammu & Kashmir (1982 AIR 1297)

⁶ Salil Bali v. Union of India [(2013) 7 SCC 705]

⁷ Mukesh v. State (NCT of Delhi) (Nirbhaya Case), (2017) 6 SCC 1

Reforms in the Juvenile Justice System

1. Reducing the Minimum Age for Serious Offences

The JJ Act of 2015's provision permitting minors between the ages of 16 and 18 to face adult trials for serious crimes was one of the most hotly contested reforms. This was perceived as an attempt to balance public safety and children's rights.

2. Simplifying the Adoption Process

By giving the Central Adoption Resource Authority (CARA) statutory authority to oversee and regulate adoptions, the 2015 Act expedited and streamlined the adoption procedure.

3. JJBs and CWCs' Expanded Role

The Act requires each district to establish Child Welfare Committees and Juvenile Justice Boards with improved resources and organization.

4. Social Reintegration and Rehabilitation

With an emphasis on education, skill development, counseling, and social reintegration, observation homes, special homes, and fit facilities were established.

Challenges in Implementation

Notwithstanding progressive legislation, India's juvenile justice system encounters a number of implementation challenges:

1. Insufficient Facilities

Numerous JJBs and CWCs operate with subpar infrastructure, a lack of employees, and restricted training opportunities.⁸ Timely evaluation and rehabilitation are impacted.

2. Lack of Sensitization and Training

Inadequate training in child psychology and juvenile laws frequently leads to law enforcement agencies, judges, and care providers handling cases inappropriately.

3. Postponements in Court Cases

Delays are frequent because of procedural backlogs and a lack of coordination among stakeholders, despite the law's requirement that cases involving minors be resolved within a certain amount of time

4. Problems with Stigmatization and Reintegration

The social stigma that juvenile offenders frequently experience makes it difficult for

⁸ <https://imprintnews.org/opinion/underprepared-staff-are-doing-the-most-difficult-work-in-child-welfare/43242>

them to reintegrate into society⁹. They are susceptible to reoffending due to the absence of community-based rehabilitation and support networks.

5. Inconsistencies in Age Assessment

Age verification is still not always done consistently, particularly when birth certificates are not available. Juveniles are occasionally wrongfully tried as adults as a result of this. Age verification is still not always done consistently, particularly when birth certificates are not available. Juveniles are occasionally wrongfully tried as adults as a result of this.

6. Increasing Rates of Juvenile Crime

Juveniles' involvement in serious crimes has been steadily rising, according to data from the National Crime Records Bureau (NCRB)¹⁰, which raises concerns about the efficacy of rehabilitation programs.

Suggestions for Improvement

- 1. Strengthening Institutional Mechanisms:** Better funding and oversight are required to upgrade the facilities of child care centers, CWCs, and JJBs.
- 2. Building Capacity:** Consistent training and awareness campaigns on child psychology and rights for police officers, magistrates, and social workers.
- 3. Community Participation:** Social reintegration can be improved by involving local communities, families, and non-governmental organizations in rehabilitation initiatives.
- 4. Technology Use:** Introducing online rehabilitation progress tracking, biometric age assessment tools, and digital case management.
- 5. Mental Health Support:** Ensuring that individuals in need of care and protection, as well as young people in legal trouble, have access to professional counseling, trauma care, and mental health services.
- 6. Legal Aid:** To guarantee that minors receive sufficient representation and assistance throughout the legal system, legal aid services should be strengthened.

⁹ <https://www.secondchancescholarshipfoundation.ca/2024/03/29/reintegration-struggles-for-young-offenders>

¹⁰ National Crime Records Bureau (NCRB) Report, 2023

Conclusion

India's juvenile justice system is at a crucial juncture where it must strike a balance between children's rights to rehabilitation and the demands for justice in cases of serious crimes. Although the 2015 Juvenile Justice (Care and Protection of Children) Act is a significant step in tackling contemporary issues, the law's efficient application is still a major worry. Fostering a just and inclusive society requires a kid-friendly strategy based on empathy, education, and reform rather than punishment. Reforming the juvenile justice system involves more than just changing the law; it also entails changing how society views and assists its most defenceless citizens, its children.

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