



A STUDY ON THE REHABILITATION OF CHILDREN IN DISPUTE WITH THE LAW IN INDIA

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ABSTRACT

The world's largest population of children resides in India. The Indian Constitution protects all children in the country have basic rights, and the administration is empowered to make specific measures for them. The Act governs children, sometimes known as Juveniles. This is referred to as violating the law inside country. The fundamental purpose is to create a juvenile justice arrangement that would focus on reintegration. Its execution is the responsibility of the Department of Women and Child Development. Juvenile Justice Boards All legal rights of children will be respected in India, and actions will be done to protect them. Putting in the necessary effort to ensure their recovery and safety, which includes meeting their physical, psychological, and emotional requirements, societal expectations and understanding the rehabilitation of youngsters in legal trouble is one of the studies goals.

Introduction

In the words of *Rabindra Nath Tagore* "Children are a country's most valuable asset, and their correct development is critical to the country's future. A future investment in children is required. Today's active and clever citizen is tomorrow's healthy and educated youngster."¹

A child is born innocent, and if given proper care and attention, he or she will grow into a person of great stature and quality, possessing physical, moral, spiritual, and cerebral abilities.¹ Disturbing conditions, a disregard for fundamental requirements, poor company, and other abuses and temptations, on the other hand, would be harmful.² A child that is spoiled is more prone becoming a delinquent. India has the world's largest number of children. All children in India are guaranteed fundamental rights and are empowered by the Indian Constitution. The government should make special provisions for youngsters.³ The Governmental Policy Directive Principles give specific instructions. The states duty in preventing harm to children throughout their formative years and guaranteeing that they have the opportunity and equipment to grow in a healthy environment.

The Study objectives

1. Gain a greater grasp of how to assist children who have broken the law.
2. To look into the significance of laws and behaviors when enforcing them.
3. To comprehend the many types of rehabilitation accessible to children throughout India who have broken the law.

Research method

The current study relies on secondary data first from reports as well as other publicly available sources. The rehabilitation procedure for youngsters in inconsistency by means of regulation was examined in this study, and the past of youngsters in clash by means of the law in India was provided using secondary data⁴ acquired from a variety of power generations in India.

Literature analysis

The Juvenile Justice (Care and Protection of Children) Act was amended in 2006, and it became effective in 2007.

After nearly five years in existence, the Act⁵ indicated that certain parts of Act needed to be revisited. As a result, the legislation was updated in 2006 to take a more child-friendly approach to adjudication and

resolution of situations involving children best interests, as well as their rehabilitation and general development (*Paranjape, N.V., 2011*).

The juvenile justice system is made up of several agencies such as:⁶

(A) **The Unique Juvenile Police Unit (SJPU):** a particular element of the law enforcement force was established under the Act to deal with juveniles in dispute by means of the regulation. The ordinance also mandates that each police station appoint one officer as a Child Welfare Officer (JCWO). Some officers are designated as child welfare officers at the police station level in the state of Tamil Nadu; it is thought that such officers are also assigned other jobs. Furthermore, no is available.⁷

(B) **Probation:** The experimentation arrangement is represent through probation officials. The prisons department in Tamil Nadu is in charge of adult probation, while the Directorate of Social Defence is in charge of juvenile probation. The probation administrator is seen as an acquaintance, a philosopher, and a channel for young people who are in disagreement by means of the regulation since he/she acting such an important part in the complete illegal justice procedure, beginning arrest by law enforcement to rehabilitation and social reintegration. Right today, the state employs 26 probation officers. A single probation officer often leads a district.

Child definitions and meaning

According to international law, a child is defined as any human being under the age of 18. In the Act, the term delinquent juvenile was replaced with the words juvenile in conflict with law, which was used in the preceding Juvenile Justice Act 1986.

A Child in Conflict with the Law is a child under the age of eighteen who is accused or found guilty of committing an offence while under the age of eighteen at the time of the offence. Anyone under the age of eighteen is referred to as a Juvenile or Child.⁸

A study of the Juvenile Justice Act revealed in March 2017 that no police personnel should be utilised in cases involving juveniles, according to the High Court. The investigator also had been given the permission to apprehend a child in conflict with the law, or she had just been given the ability to apprehend children who were breaching the law. He or she will have to appear in front of the Juvenile Justice Board. Section 10 of the Juvenile Justice Act

Basic principles to follow when enacting law and act concerning

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children

The state has developed a set of Standard Operating Procedures (SOP) for the Juvenile Justice System's rehabilitation of youth who have broken the law. The declared purpose of the SOP is to highlight the reason of personal development and community reintegration by as long as various type of care. After-school programming, foster care, and endorsement are provided to offspring. Every child who breaks the rule has the rights listed below, which would include and are therefore not limited to:

- 1) Treatment with compassion.
- 2) No corporal punishment will be used.
- 3) Segregation from adult criminal if locked up.
- 4) Officially authorized representation.
- 5) Discharge on personal recognizance after posting bail.
- 6) Maintaining confidentiality.
- 7) If permitted, diversion.
- 8) Reasonable decision-making.
- 9) The freedom to be discrimination-free
- 10) The Constitution guarantees certain rights.

The long-term development strategy of Juvenile

A complete growth map intended for a young or kid based on the young or child's age and as well as juvenile or child's case history, established in cooperation with both the juvenile or child in order to reinstate the juvenile, Physical and mental well-being; mental and behavioral needs; educational and training requirements, Play, creativity, and leisure; Relationships and attachments; Abuse, neglect, and mistreatment protection in all forms; Mainstreaming social issues; and Follow-up after release and repair; Relationships and attachments; Torture, abandonment, and maltreatment protection in all kinds

- 1) Rehabilitative requirements of juveniles i.e. individual information about the young, as well as details about his case history; fundamentally, the juveniles psychological and emotional needs, occupational and educational needs, interests, as well as how the juvenile's sociological main streams will be enabled.
- 2) His or her development in the treatment procedure, as evidenced by the child's fortnightly progress reports, including how far the youngster has progressed in any special education, monthly wages if working, savings, and general conduct.
- 3) A pre-publication report.

In India, there is a long history of child rehabilitation through legislation.

In India, the narration of juvenile management, on the whole legislation laws have favoured the British model to some extent. England inspired the idea of providing special considerations for juvenile criminals. The British dominated India in the nineteenth century. In terms of date, the Apprentices Act of 1850 is the first.

The law was passed to assist troublesome adolescents who would be educated in professions and industries. It was a national gathering. A measure to combat adolescent misbehavior. The Apprentices Act covered boys and girls aged 10 to 18 years old. A boy's maximal apprentice period was seven years, or until he turned 23, while a girl's maximum apprenticeship period was until she married.

The 1960 Children Act established a framework for the care, security, sustenance, comfort, education, training, and reintegration of abandoned and rebellious offspring. In India, the Children Act made it illegal to detain children under any condition. It established a children court and a child benefit board as independent adjudicatory bodies to arrangement by means of wayward and deserted offspring. The law also created a three-tiered arrangement of establishments, including an observation home for children awaiting court procedures, a child's house for abandoned children, and an extraordinary discipline for antisocial brood.⁹

To address these difficulties, the Legislation of 1986 was passed. This statute was in effect throughout the United States. Following the gang rape in Delhi in 2012, the government recognised the need for a new

juvenile law, and on August 12, 2014, Maneka Gandhi introduced a bill in Parliament. On May 7, 2015, the Lok Sabha passed the Juvenile Justice (Care and Protection) Act, and the Protection of Children) Bill, 2015. It received Rajya Sabha approval. On December 31, 2015, the President signed it into law, and it took effect on January 15, 2016.¹⁰

The Juvenile Justice (Care and Protection of Children) Act of 2000 is no longer in effect.

The Constitution's provisions have also encouraged developments in the area of juvenile justice, art. 15(3), art. 23, art. 24, art. 39e, and Art. 45 all address children directly. The courts in India acting an significant responsibility and has delivered numerous landmark decisions in the best interest of children's rights. Sheela is a fictional character in the film Sheela. The Supreme Court in *Barse v. Union of India* ordered the state government to build the necessary infrastructure. Children accused of crimes could be detained in surveillance homes, and juvenile jail centres could be formed.

In India, there are statutory provisions for children.

To comprehend the current condition of India's juvenile justice system, it is important to go back in time. The Apprentice Act of 1850 was India's first juvenile justice law, mandating juveniles aged 10 to 18 who had been sentenced in court to get occupational training is a part of their rehab. This statute was the foundation for both the Reformatory Schools. The Juvenile Justice Act of 1986 was India's fundamental legal foundation for juvenile justice. The Act created rules for the implementation, prosecution, and treatment of offspring in the juvenile system, as well as a novel approach to detecting and reducing juvenile delinquency.

A look back in time is required to comprehend the current state of India's juvenile justice system. Following independence, several legislation dealing with care and protection of children, this bill was debated by Parliament, and some were passed. After independence, the Children Measure of 1960 was the first act concerned with juvenile justice. The Juvenile Justice Act, which includes various laws affecting juvenile justice, was passed in 1986. In the year 2000, Congress passed the Juvenile Justice Act of 2000, which was an achievement of juvenile justice legislation. The most current legislation is the Juvenile Justice Act of 2015. In conjunction to these Acts, the Indian Constitution includes juvenile justice provisions.

A historical perspective is required to comprehend the current state of India's juvenile justice system. The primary model is based on the principles of fairness, the importance of law and due procedure, and the fact that expert lawyer make the majority of the decision. The second replica is based on financial and community justice goals that are reflected in government development and wellbeing programmes.¹¹

Administrator and professional from the assistance services make the major decisions. It had been decided. Understanding the problem in respect to the first two challenging model is necessary for the correct design of a model, i.e. method for juvenile control and protection. The problem is overcome in the third model since it addresses juvenile justice.

The Central Social Welfare Board was established.

The government formed the Central Social Welfare Board in 1953, which was completely supported by the administration for child-care initiatives and programmes such as rural Balwadis, vacation rentals, women's homes, and so on. The Department of Women and Child Development was formed in 1985 and was abolished in 2000.

The ministry of human resource development is in charge of ensuring the development of women and children. The Union Minister for Human Resource Development announced the formation of a National Commission for Children, which will consist of seven members, including a retired judge. The panel, which would be overseen by a Supreme Court Judge, would be in charge of executing the UN Convention on the Rights of the Child.

Various types of rehabilitation for children who have broken the law

Police involvement in juvenile justice: When a criminal makes contact with a law enforcement officer, the process of rehabilitation begins. A young person who gets himself or herself into difficulty frequently wants to get out of it as well. He will become more amenable to the care he will receive if their initial experience with the cops is kind and empathetic. If the officer is actually in control of the operation and himself, the child's attitude should gradually change, and the officers work will become simpler. A common statement is "a law enforcement officer must act and interact with children in a friendly manner."

Judicial Role: The judiciary plays an important part in the growth of the juvenile system in India, with the Supreme Court and various High Courts playing a key role. Juvenile instances are now in the early phases of investigation. The perspective to a child in dispute is changing, as indicated by Supreme Court as well as other high court decisions. The judicial system/Judicial Justice Commission has a legislative and fundamental responsibility to deal with disputing youth.¹²

Institutional Superintendent: The Administrator of an Organization is responsible for the preservation of the CCI as well as be concerned and guard of the children. He will exist the control over resources for all administrative matters concerning the institution as a whole. For administrative reasons, the entire staff of the agency would be his own her subordinates. The person in charge of the school is the Superintendent/Person-in-Charge. The official in charge of something like the school in terms of the law. It must be accessible 24 hours a day, seven days a week, and live on campus. Until he receives it, he must stay in a location that is safe. The location is close to the university.

Counselors: as much data on the children as feasible, as well as the grounds about his or her enrolment to the CCI. The purpose of these sessions is to gain a deep understanding about the young person, his or her state of affairs, environment, situation, and requirements in order to create recommendation that will affect future judgments. The youngster is required to report to the Board/Court, Children, and the ICP.

Practitioner: A practicing practitioner with a doctorate in child psychology, psychiatry, sociologists, or law who has been actively engaged in health, educational, or community development projects related to children for the at least seven years may be chosen as a member of the Board.

Responsibilities of the House Mothers/Fathers: The house mothers/fathers will be responsible for the children and will work beneath the supervision of the Superintendent/Person-in-Charge.

Guardian: They could be blood relations or not. Nevertheless, authorities have assumed on the responsibility of looking after the minor.

Observation houses: Section 8 of the Juvenile Justice Act permits the organization of observation homes for juveniles. The State Government may certify any institution other than a home created or maintained under paragraph (1) as an observation home for the temporary reception of adolescents in conflict with the law while an inquiry into their case is performed under this Act.

Observation houses are established by Section 8 of the Juvenile Justice Act. The adolescent observation home is where early investigations, therapy, and classification are carried out. The child or young person in criminal responsibility is placed in an observation parents house during the time the independent investigation or hearing is pending, where they are divided into three age categories: 7 to 12 years, 12-16 years, and 16-18 years, with special attention given to their own physically and mentally conditions, as well as the degree or circumstances of the crime decided to commit by them, while constructing an observation house.

Special homes: Special Homes are established under Section 9 of the Act for the rehabilitation of minors who have breached the law. Any State Government may, on its own or in partnership with voluntary groups, create and run special houses in every district or group of districts under this Act. The state government has enacted rules.

Bail of juvenile: Regardless of the provisions of the Code, 1973, or any other legislation in effect at the time, any individual accused of a

bailable or non-bailable offence who appears to be a juvenile is arrested or detained, or appears or is taken before a board, Section 12 of the Act provides that such individual shall (2 of 1974) or under any other legislation in effect at the time, be released on bail with or without bond, or be placed under the supervision.¹³ He will be released if there are reasonable grounds to suspect that his release will put him in contact with others or expose him to moral, physical, or financial penalties if he is a known criminal.¹⁴

No combined trial: The law states that no juvenile can be charge or tried for any crime alongside someone who isn't a juvenile. Bail of a juvenile: Section 12 of the Act anticipates that any individual accuse of a bailable or non-bailable offence, and who seems to be a juvenile, will be released on bail. If a minor is charged with a crime punishable under section 223 of the Criminal Code, the juvenile may be prosecuted under the Code of Criminal Procedure or any other law in effect at the time, and anyone who isn't a minor would have been prosecuted if the restriction in subsection had not been in place.¹⁵

Board of Juvenile Justice: In each district, the Authority shall create one or even more Juvenile Correctional Boards to exercise the authorities and perform the tasks bestowed on it by this Act in connection to minors in dispute with the law.

A Board is composed of a urban Magistrate or a legal Magistrate of First Class who is neither a Principal Metropolitan Magistrate or a Principal Judicial Magistrate (hence referred to as Principal) Two social workers (at least three years experience) and a judicial officer (at least three years experience), at least one of whom must be a woman, form a Bench, each who shall have the powers conferred on a Metropolitan Magistrate or, as the case may be, a Deputy Metropolitan Magistrate by the Code of Criminal Procedure, 1973, be a Judicial Magistrate in the State of:

- (1) Has a history of violating human or child rights
- (2) Has been convicted of a felony involving moral turpitude that has not been expunged or for which he or she has not received a complete pardon,
- (3) Has been sacked or discharged from the federal, state, or local government
- (4) The federal government or a state government owns or controls an undertaking or firm.
- (5) Has ever committed child sexual abuse, child slavery, or any other type of human rights abuse; or unethical behaviour the country administration will ensure that all members undergo orientation and are informed about the issue.
- (6) involving the Board's Principal Magistrate in matters of child care, safety, rehabilitation, statutory rules, and justice

2013 Children National Policy

The government passed a new nationwide strategy for Children, 2013, on April 26th, 2013. Everyone under the age of eighteen is considered a kid under the Policy, which covers each and every one offspring within the country's land and authority. It recognises the value of a multi-dimensional, multi-sectoral approach. Protection and involvement are necessary to provide focused attention, education, and progress. Because children have such various needs. Because it is multi-sectoral, interconnected, and involves collective action coordination across many sectors and levels of government, the Policy asks for purposeful convergence and collaborative action.

Recommendations

1. The importance of course education and operating refresher courses for decision-makers and other types of personnel in the Juvenile System cannot be overstated.
2. Implementing the spirit of the games numerous programs and services.
3. As proven by the instance, missing spirit can be disastrous in many situations. The Juvenile Justice System has built homes thus far. On this topic, the government should provide orientation courses, seminars, and public awareness programmes.
4. A message was sent to the functionaries on a regular basis in order

for them to digest the message conveyed. All types of employees participating in the administration of justice must be properly trained. During a national conference on juvenile justice training, the relevance of juvenile justice was emphasised and recognised.

Conclusion

Despite the fact that India has laws and committees in place to protect children from sexual abuse, the situation has not improved significantly. Despite an increase in the reporting of sexual abuse occurrences, many incidents go unreported or are only reported after the kid is persuaded to remain silent. In India, there is a major gap in developing effective tactics, knowledge, or processes to prevent children from being sexually molested. The complexities of Indian legal systems in protecting children who have been sexually abused and punishing offenders who have committed sexual abuse has resulted in a lack of sensitivity and significant awareness among individuals about sexual assault.¹⁶ The Indian society's attitude toward sexual abuse victims, as well as its refusal to admit incidences of child sexual abuse, has resulted in re-victimization of survivors, while perpetrators are free to roam. Furthermore, there is a severe lack of understanding in India about how to protect children from sexual abuse, inefficiency in responding to such incidents, and inadequacies in giving emotional and moral assistance to sexual abuse survivors, all of which exacerbate the situation. According to statistics, the growth in the rate of sexual abuse against children is due to societies or legal acts inability to prosecute sexually abused children and punishes the perpetrator. This mistake could lead to an increased likelihood of subsequent and more serious cases of child sexual abuse. Another important reason that puts children at risk for child sexual abuse in India is that more families are socially isolated, making it easier to keep secrets. One in every five people does not feel safe because they are afraid of being sexually molested, according to a poll done by humanitarian relief group World Vision India in 2017. It was also discovered that one out of every four families does not disclose child abuse. While tremendous awareness has been generated regarding sexual

violence against women in India, considerably less is known about the issue of sexual abuse of children, according to a Global Report titled "*Breking the Silence: Child Sexual Abuse in India*". Persons, parents, caregivers, and society at large all have an obligation to monitor that youngsters can grow up in a decent socio-cultural setting.

To help kids develop into responsible people who are physically fit, mentally alert, and morally sound. Respect, obedience, and virtues and outstanding traits are demanded of children. However, a number of circumstances and reasons have contributed to this.

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