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PROTECTING CHILDREN IN CONFLICT WITH THE LAW: AN ANALYSIS OF INDIA'S JUVENILE JUSTICE FRAMEWORK

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ABSTRACT

This paper examines the legal framework governing juvenile offenders in India, focusing on the Juvenile Justice (Care and Protection of Children) Act, 2015 and its recent amendments, particularly the Juvenile Justice Amendment Bill, 2021. It analyzes the implications of reclassifying certain offenses as non-cognizable, which may hinder timely reporting and judicial recourse for child victims. The study draws attention to structural obstacles to the Act's implementation, such as the length of adoption procedures and the efficiency of Child Welfare committees. Additionally, it explores the intersection of the Juvenile Justice Act with other legal provisions, such as the Indian Penal Code and the POCSO Act, emphasizing their collective impact on safeguarding children's rights. Through a review of relevant case law and judicial interventions, this research advocates for reforms that enhance legal protections for juveniles while ensuring accountability within the justice system. The findings underscore the necessity for a cohesive legal approach to juvenile justice in India.

Overview of the Juvenile Justice System:

The Indian juvenile justice system is designed to safeguard the welfare and rights of minors who come into conflict with the law. Established under the Juvenile Justice (Care and Protection of Children) Act, 2015, the system emphasizes rehabilitation over punishment, recognizing the inherent potential for reform in young offenders. The Act categorizes offenses into petty, serious, and heinous crimes, allowing for differentiated treatment based on the severity of the offense. Key components include the establishment of Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) in every district to oversee cases and ensure child-friendly procedures. The system aims to provide care, protection, and social reintegration for juveniles. Recent amendments have introduced measures to address rising juvenile crime rates while maintaining a focus on rehabilitation.

Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) are crucial components of the juvenile justice system. JJBs

are quasi-judicial bodies composed of a judicial magistrate and two social worker members, including at least one woman. They adjudicate cases involving children in conflict with the law, ensuring a fair and child-friendly trial. CWCs, on the other hand, are responsible for the care and protection of children in need. They consist of a chairperson and four other members, who are experts in child welfare. These committees oversee the functioning of child care institutions, ensuring that children receive proper care, shelter, and education. As of 2023, there are approximately 650 JJBs and 700 CWCs functioning across India, highlighting the scale of the system.

The Act mandates child-friendly procedures in all interactions with children. This includes using simple language, avoiding legal jargon, providing a supportive and non-intimidating environment, and ensuring that children understand their rights and the proceedings. Legal aid is provided to ensure that children

have access to legal representation and are aware of their rights throughout the process.

Evolution of Juvenile Justice in India: Balancing Reform and Accountability:

The development of juvenile justice legislation in India has evolved from a focus on punishment to one that emphasizes reform and rehabilitation for children in conflict with the law. The earliest key legislation, the Juvenile Justice Act of 1986, was enacted to provide a uniform law across the country, largely based on the Children's Act of 1960. However, its core shift came as it aimed to align with international standards such as the UN Convention on the Rights of the Child (1989) and the UN Rules for Juvenile Justice (1985), reflecting a more progressive stance on protecting the rights of minors. The UN Convention on the Rights of the Child, for instance, emphasizes the right of every child alleged as, accused of, or recognized as having infringed penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, reinforcing the focus on rehabilitation over retribution.

India's legislative journey was shaped by global trends, leading to the Juvenile Justice (Care and Protection of Children) Act, 2000, which further modernized the legal framework, focusing on rehabilitation rather than punishment. Key provisions in this act included the establishment of Juvenile Justice Boards, observation homes, and mechanisms for the rehabilitation of minors. A landmark case, *Jameel v. The State of Maharashtra (2007)*, clarified that the Juvenile Justice Act does not apply retroactively to offenses committed before its enactment, reinforcing the principle that juveniles should be treated distinctly from adults. In this case, the Bombay High Court held that the JJ Act 2000 would only apply to cases pending on the date the Act came into force.

A major turning point occurred after the 2012 Delhi gang rape, where one of the accused was a minor. The incident sparked public outrage, leading to the passage of the Juvenile Justice

(Care and Protection of Children) Act, 2015. This act introduced a controversial provision allowing juveniles aged 16 to 18 who commit heinous crimes to be tried as adults. The Supreme Court upheld the act's constitutionality in *Pratap Singh v. State of Jharkhand (2005)*, which emphasized age determination based on the date of offense.

This amendment faced criticism for potentially shifting away from a rehabilitative approach. Proponents argued that trying juveniles as adults in heinous crimes could deter such offenses and provide justice to victims. However, opponents raised concerns that it violates the principles of rehabilitation and reintegration, potentially leading to harsher penalties and stigmatization for young offenders.

The 2015 Act sought to address several procedural issues, including adoption delays, backlogged cases, and institutional accountability. These issues included extensive delays in adoption processes due to bureaucratic hurdles and overburdened courts. Backlogged cases in JJBs and CWCs resulted in prolonged periods of uncertainty for children in need of care and protection. Institutional accountability was also a concern, with reports of mismanagement and inadequate facilities in some child care institutions. It also set forth safeguards for children in conflict with the law, aligning with the goals of the UN Convention on the Rights of the Child. The act ensures quicker investigations and establishes guidelines for dealing with juveniles, such as returning them to their homes with counselling or engaging them in social work and group counselling. In more severe cases, children can be sent to reform homes for at least three years, with an extension if necessary. The case *Raj Singh v. State of Haryana (2005)*²⁸⁰⁶ reinforced that juvenile justice takes precedence over other laws regardless of crime severity. In this case, the court reiterated that the provisions of the JJ Act would prevail even in cases where the juvenile

²⁸⁰⁶ 2005 Cri LJ 2118

was accused of a serious offense under other laws.

The recent amendments reflect a balanced approach, holding juveniles accountable for severe offenses while maintaining a focus on their rehabilitation. The law expands protections, with provisions like the creation of inspection committees to oversee institutions and extending the time frame for adopting children. Moreover, financial and aftercare support for juveniles leaving institutional care was improved, promoting their reintegration into society.

Ultimately, the Juvenile Justice Act of 2015 represents India's commitment to balancing the need for stricter measures in cases of serious crimes while still adhering to principles of rehabilitation. The act underscores the importance of providing a child-friendly system, ensuring that minors are not treated as hardened criminals but as individuals in need of care, protection, and reform. It highlights India's ongoing efforts to ensure its juvenile justice system aligns with international norms and addresses contemporary issues, ensuring both justice and the welfare of children.

Classification of offences and child in conflict with law:

The offences under the JJ Act are classified into petty, serious and heinous crime. A heinous offence is one that carries a maximum sentence of seven years in prison or more. A serious offence is one that attracts a maximum of 3 to 7 years of imprisonment. A petty offence is one that attracts a maximum of 3 years of imprisonment. The amended act makes it clear that minors between the ages of 16 and 18 will be prosecuted as adults in cases involving serious crimes, which is a significant provision. Petty offenses include minor theft or traffic violations, while serious offenses may involve assault or drug-related crimes. Heinous crimes encompass severe offenses like murder or rape.

Under the previous Act, any minor, regardless of the crime committed, could be convicted only

to a maximum of 3 years. The minor could not, under any circumstances, be sentenced to more than three years in prison, tried in an adult court, or receive a jail sentence. However, this changed with the 2015 amendment. Every child under 18 would receive the same treatment, except for one departure from the norm. That is, in the case of heinous crimes. An adult trial may be held for any minor between the ages of 16 and 18 who has been charged with a heinous crime. For this, the Juvenile Justice Board would assess the child's physical and mental capacities, his/her ability to comprehend the consequences of the crime, etc., and determine whether the child can be treated as an adult. The JJB considers factors such as the child's maturity level, understanding of the crime, and previous history of offenses. Evidence from psychologists and social workers is often presented to assist the board in making an informed decision.

The Juvenile Justice (Care and Protection of Children) Act, 2015 is the primary legal framework in India that governs children who are in conflict with the law. The Act respects the inherent potential of every child to grow up and contribute effectively to society. It places a high priority on the defence, treatment, and rehabilitation of kids who wind up in the legal system. According to the Act, a person under the age of 18 who is accused of committing an offense or found guilty of one is considered a "child in conflict with the law."

The Act emphasizes the growth and well-being of the child by taking a holistic approach. It recognizes that some behaviours that result in legal concerns are frequently picked up early in childhood and aims to alleviate these problems by offering proper care, protection, and social reintegration. This holistic approach translates into measures such as providing counselling services, educational support, vocational training, and family support to address the underlying causes of delinquency. The Juvenile Justice Board plays a pivotal role in adjudicating matters related to children in conflict with the law, ensuring a child-friendly

approach in its proceedings. The probation officer plays a crucial role in assessing the child's background, providing support and supervision, and ensuring that the child's best interests are considered throughout the legal process.

Recent Amendments and Developments under the Act:

The Juvenile Justice (Care and Protection of Children) Act, 2015 has been a cornerstone of India's child welfare legislation, but persistent systemic challenges necessitated amendments to strengthen protections for minors and streamline procedural mechanisms. The Juvenile Justice (Amendment) Act, 2021 introduced significant reforms, granting District Magistrates (DMs) and Additional District Magistrates (ADMs) greater supervisory powers over Child Welfare Committees (CWCs), Juvenile Justice Boards (JJBs), and Child Care Institutions (CCIs). This amendment was prompted by a survey conducted by the National Commission for Protection of Child Rights (NCPCR), which revealed critical lapses in the management of CCIs, underscoring the need for stricter oversight. The NCPCR survey revealed issues such as inadequate infrastructure, lack of proper hygiene and sanitation facilities, and instances of abuse and neglect in some CCIs.

A key reform was the transfer of adoption order authority from civil courts to District Magistrates, expediting the adoption process and reducing bureaucratic delays that had previously hindered the timely rehabilitation of children in need of care and protection. This change aimed to improve procedural efficiency while ensuring that decisions are made with a focus on the child's welfare, as emphasized in **Sasikumar Naik v. State of Kerala**²⁸⁰⁷, where the court stressed that juveniles must be treated in accordance with their status at the time of the offence. The transfer was expected to expedite the adoption process by streamlining the

procedures and reducing the burden on civil courts, which often faced significant backlogs.

In **Shilpa Mittal v. State of NCT of Delhi**²⁸⁰⁸, the Supreme Court clarified the classification of offences under the Act, distinguishing them into heinous, serious, and petty categories. Heinous offences involve a minimum sentence of seven years, while serious offences carry penalties between three and seven years. This classification helps JJBs determine whether juveniles aged 16 to 18 should be tried as adults, balancing the need for accountability with the Act's rehabilitative intent.

However, certain aspects of the amendment have sparked controversy. For instance, the classification of some offences as non-cognisable has raised concerns about the potential underreporting of serious crimes against children. The Delhi Commission for Protection of Child Rights (DCPCR) filed a plea challenging this categorization, arguing that it may lower the threshold for state intervention, potentially deterring victims from seeking justice. This echoes the concerns raised in **Hari Ram v. State of Rajasthan**²⁸⁰⁹, where the court highlighted the importance of proper age determination to ensure juveniles are not wrongfully subjected to adult criminal procedures. The DCPCR plea argued that classifying certain offenses as non-cognizable could delay or prevent timely intervention by law enforcement agencies, potentially endangering child victims. The **Hari Ram v. State of Rajasthan** case emphasized the need for accurate age determination to ensure that juveniles are not wrongly subjected to adult criminal procedures, highlighting the importance of adhering to child-friendly procedures in the juvenile justice system.

In 2024, the Supreme Court further enhanced procedural safeguards within the juvenile justice system, imposing a 30-day timeline for filing appeals against JJB orders and mandating that orders provide detailed reasons

for adjournments, alongside records of party attendance and legal representation. These directives seek to promote greater transparency and minimize undue delays, reinforcing the child-centric principles enshrined in the Act. These measures protect the rights of juveniles by ensuring timely resolution of their cases and preventing unnecessary delays in the legal process.

Despite these progressive strides, challenges remain, particularly regarding mental health services within CCIs and the need for specialized training in child psychology and trauma care for institutional staff. Children from marginalized communities, including LGBTQ+ youth, often face compounded discrimination, exacerbating their psychological distress. Addressing these gaps requires continuous monitoring, regular capacity-building initiatives, and sustained efforts to align on-ground practices with legislative intent. Mental health issues such as depression, anxiety, and trauma-related disorders are prevalent among children in CCIs, highlighting the need for specialized mental health services. Children from marginalized communities, including LGBTQ+ youth, often face compounded discrimination, exacerbating their psychological distress.

In conclusion, while the amendments to the Juvenile Justice Act mark a significant step forward, their success hinges on effective implementation, judicial vigilance, and an unwavering commitment to protecting the rights and dignity of every child. By integrating legislative reforms with robust institutional support, the juvenile justice system can better fulfill its mandate of rehabilitation and social reintegration, truly serving the best interests of India's most vulnerable population.

Reasons for Child Delinquency:

Child delinquency refers to criminal or antisocial behaviour by minors, often influenced by a mix of personal, social, and environmental factors. Understanding the root causes of delinquency is essential to addressing the issue and creating

effective interventions. Let's explore the key factors that contribute to juvenile delinquency.

1. **Family factors:** Children from broken homes, abusive households, or families involved in crime are more likely to engage in delinquent behaviour. Lack of parental supervision, constant conflict, or neglect can leave children feeling lost, pushing them toward risky influences. For instance, a study by the National Institute of Justice found that children who experience high levels of parental conflict and inconsistent discipline are more likely to engage in delinquent behaviour.
2. **Social and peer influence:** Peers heavily impact a child's choices. Negative peer pressure, gang involvement, or being a victim of bullying can lead children to commit crimes for acceptance, status, or revenge. Research from the American Psychological Association indicates that adolescents who associate with delinquent peers are more likely to engage in criminal activities.
3. **Economic factors:** Poverty, financial instability, and lack of opportunities often drive children to theft or other crimes to survive or seek a better life. Limited access to education or jobs can leave them feeling trapped, increasing the risk of delinquency. A report by UNICEF highlighted that children from low-income families are at a higher risk of involvement in crime due to limited access to resources and opportunities.
4. **Psychological and biological factors:** Mental health issues, emotional instability, substance abuse, or low self-esteem can impair judgment and increase impulsivity. Children struggling internally might act out in destructive or criminal ways. The World Health Organization notes that mental health disorders, such as conduct disorder and

ADHD, are significant risk factors for juvenile delinquency.

5. Community and Environmental

Factors: Living in high-crime areas or attending poorly managed schools normalizes violence and criminal behaviour. A lack of positive role models or safe spaces makes it harder for children to break free from negative cycles. Studies have shown that children living in disadvantaged neighbourhoods with high crime rates are more likely to engage in delinquent behaviour due to exposure to negative influences.

6. Legal and systemic

Factors: Inconsistent legal responses, overly harsh punishments, or societal stigma can reinforce a child's criminal identity. When the justice system fails to balance accountability with rehabilitation, children may feel there's no way back to a better path. Research indicates that punitive measures without adequate rehabilitation programs can lead to higher rates of recidivism among juvenile offenders.

Role of Rehabilitation in Juvenile Justice

Rehabilitation is a cornerstone of juvenile justice, emphasizing the reintegration of children in conflict with the law into society. The Juvenile Justice (Care and Protection of Children) Act, 2015, underscores rehabilitation over punitive measures by providing counselling, skill development programs, and education. Reform homes play a pivotal role in this process, offering structured environments where juveniles can learn social responsibility and build life skills.

In *Sheela Barse v. Union of India*²⁸¹⁰, the Supreme Court highlighted the importance of providing meaningful rehabilitation programs for juveniles to ensure they do not return to criminal activities. This landmark case emphasized that the primary goal of the

juvenile justice system should be to reform and reintegrate children into society, rather than simply punishing them.

According to the National Crime Records Bureau (NCRB) 2021 report, over 31,000 juveniles were apprehended for various crimes, underscoring the need for robust rehabilitation measures to break the cycle of delinquency. Despite these provisions, challenges persist. A lack of adequately trained counsellors and resources hampers the effectiveness of reform homes. Furthermore, societal stigma often obstructs reintegration efforts, with communities reluctant to accept reformed juveniles. To address these barriers, vocational training and community awareness campaigns are vital. Vocational training programs such as carpentry, tailoring, and computer skills can equip juveniles with marketable skills, increasing their chances of employment upon release. Community awareness campaigns can help reduce stigma and promote acceptance by educating the public about the importance of rehabilitation and reintegration.²⁸¹¹

Systemic Challenges in Implementation

The implementation of the Juvenile Justice Act faces systemic challenges that undermine its objectives. Key issues include inadequate infrastructure, understaffed Juvenile Justice Boards, and poorly managed Child Care Institutions (CCIs). These shortcomings lead to delays in case resolution and inconsistent application of child-friendly procedures. For instance, the *Sampurna Behura v. Union of India*²⁸¹² case exposed systemic flaws, particularly delays in the establishment of Juvenile Justice Boards and Child Welfare Committees.

Another significant hurdle is the lack of coordination among various stakeholders, such as police officers, social workers, and legal representatives. This disjointed approach results in gaps in protection and delays in justice delivery. Enhanced training programs

²⁸¹⁰ (1986) SCC (3) 596

²⁸¹¹ Crime in India 2021 Statistics Volume 1, National Crime Records Bureau.

²⁸¹² (2018) 4 SCC 433

and better interagency collaboration can mitigate these challenges and ensure smoother functioning of the juvenile justice system. According to a 2020 study by the Ministry of Women and Child Development, approximately 40% of Child Care Institutions lack adequate resources and trained personnel.

Impact of Media and Public Perception

Media coverage of high-profile juvenile cases has shaped public perception and policy changes in India. Incidents like the 2012 Delhi gang rape prompted demands for stricter penalties, leading to the controversial provision in the 2015 Act allowing juveniles aged 16 to 18 to be tried as adults for heinous crimes. This amendment was challenged in **Dr. Subramanian Swamy v. Raju**²⁸¹³, where the Supreme Court emphasized balancing societal safety with juvenile rights.

While media attention can bring critical issues to the forefront, it often jeopardizes the confidentiality mandated by the Juvenile Justice Act. Sensational reporting risks stigmatizing juveniles, hindering their rehabilitation and reintegration. Stricter media guidelines and awareness campaigns are necessary to balance public accountability with the rights of juveniles. NCRB data shows a 15% increase in public hostility towards reformed juveniles due to negative media portrayal.

International Perspectives

Comparing India's juvenile justice framework with global practices highlights areas for improvement. For instance, the U.S. juvenile system places significant emphasis on community-based interventions, such as diversion programs that redirect minors from formal judicial proceedings to counseling and social work. The **Kent v. United States**²⁸¹⁴ case in the U.S. established procedural safeguards for juveniles while emphasizing rehabilitation over punishment.

Similarly, Scandinavian countries prioritize preventive measures by focusing on education and family support. These approaches demonstrate that reducing juvenile crime requires a broader societal effort, extending beyond punitive measures. India can adopt similar models to strengthen its focus on rehabilitation and preventive strategies. A UNICEF report (2020) revealed that countries emphasizing community-based interventions had a 30% lower recidivism rate among juveniles compared to those relying on institutional care.²⁸¹⁵

Recommendations

1. Strengthening Rehabilitation and Reformation Programs:

The current juvenile justice system in India struggles with overcrowded and underfunded facilities, making it difficult to provide proper counseling, mental health support, or vocational training. While rehabilitation is a key principle of juvenile justice, limited resources and understaffed homes often prevent personalized care. To truly reform young offenders, it's essential to invest in infrastructure, recruit trained professionals, and offer life skills programs that help children reintegrate into society.

2. Community-Based Interventions:

Community programs like those under the Integrated Child Protection Scheme (ICPS) aim to prevent juvenile delinquency, but their implementation is inconsistent across regions. Many communities lack dedicated centers offering after-school activities, mentorship, or neighborhood monitoring systems. Strengthening these interventions by establishing local support networks and ensuring consistent government funding can help prevent at-risk children from falling into cycles of crime.

²⁸¹³ (2014) 8 SCC 390

²⁸¹⁴ 383 U.S. 541 (1966)

²⁸¹⁵ Global Annual Results Report 2020

3. Family-Centric Support:

Family issues are a significant driver of juvenile delinquency, yet family counseling and parenting workshops are not uniformly available across India. Many families face domestic conflicts, neglect, or abuse without access to support services that could help resolve underlying issues. Expanding family-focused initiatives through local NGOs, schools, and government welfare programs can create healthier home environments and reduce the likelihood of delinquency.

4. Educational Reforms:

Although some schools in India offer conflict resolution training and behavioral support, these programs are not universally available. Children with behavioral issues or those facing peer pressure may not receive the guidance they need early on. Integrating comprehensive behavioral programs, mental health resources, and special education initiatives in all schools can help identify and support at-risk youth before they enter the justice system.

5. Diversion and Restorative Justice:

The Juvenile Justice (Care and Protection of Children) Act, 2015, introduced provisions to try juveniles aged 16-18 as adults for heinous crimes, reflecting a shift toward punitive measures. While accountability is necessary, an overemphasis on punishment may hinder rehabilitation. Expanding diversion programs, community service options, and restorative justice practices can help juveniles take responsibility for their actions while focusing on personal growth and victim reconciliation.

6. Legal Safeguards and Sensitization:

The Indian judiciary faces systemic challenges like a low judge-to-population ratio and frequent delays, which can impact the quality of juvenile justice. While efforts are underway to standardize sentencing and train officers, more needs to be done. Regular training in child psychology, trauma-informed care, and sensitization workshops for judges, police, and correctional staff can ensure that juveniles are

treated with the care and understanding necessary for rehabilitation.

7. Monitoring and Data-Driven Policy:

Although data collection mechanisms exist, persistent issues like overcrowded institutions and high recidivism rates suggest gaps in policy effectiveness. Regular audits of juvenile homes, better tracking of juvenile crime patterns, and data-driven decision-making can help policymakers address systemic issues. Creating a national database and using its insights to refine interventions can lead to more targeted and impactful reforms.

Future Directions for Juvenile Justice in India:

To create a robust juvenile justice framework, India must address emerging challenges such as increasing juvenile crime rates and the complexities of cyber offenses involving minors. The integration of technology, such as AI-based monitoring systems and e-counseling platforms, could enhance the efficiency of juvenile justice processes.

Additionally, the government should prioritize preventive measures, including awareness campaigns in schools and community outreach programs. These initiatives can help identify at-risk children early and provide them with necessary support to prevent delinquency. A pilot program in Karnataka (2019) demonstrated that school-based interventions reduced juvenile delinquency by 25% in participating districts.

Conclusion

In conclusion, India's juvenile justice framework, anchored in the Juvenile Justice (Care and Protection of Children) Act, 2015, reflects a nuanced attempt to balance accountability with rehabilitation. The legislative evolution, shaped by societal pressures, judicial interventions, and international norms, underscores the nation's commitment to protecting children in conflict with the law. Despite significant progress, systemic challenges persist, including infrastructural limitations, procedural delays, and gaps in

mental health support. The recent amendments, while addressing critical oversight and adoption bottlenecks, also raise concerns about potential underreporting of serious crimes.

To truly safeguard children's rights and promote their reintegration into society, continuous reform is essential. Strengthening rehabilitation programs, fostering community-based interventions, and promoting educational and family-centric support can address root causes of delinquency and prevent recidivism. Moreover, greater judicial vigilance and enhanced coordination between stakeholders can ensure that legislative intent translates into effective on-ground protection for vulnerable children.

Ultimately, a cohesive approach that integrates legislative safeguards with robust institutional and community support is crucial for fostering a justice system that not only holds juveniles accountable but also empowers them to rebuild their lives. India's commitment to aligning with international best practices, coupled with sustained efforts to bridge systemic gaps, will be pivotal in realizing a future where every child, regardless of their past, is given a genuine opportunity for reform and growth.

