
DEVELOPMENT OF JUVENILE JUSTICE ACT IN INDIA: GOVERNMENT BODIES AND LEGAL PROVISIONS

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The Juvenile Justice (Care & Protection of Children) Act, 2000, is the legal foundation that establishes the Juvenile Justice system in India. This legislation is the result of a protracted evolution that took place over a sizable amount of time, most notably since the 1980s. This procedure included in the Act the essential in addition to the nation's own experience in dealing with children in need and at risk, the country also draws on the provisions of the CRC, Beijing Rules, UN Rules for the Protection of Juveniles Deprived of their Liberty, and all other such pertinent international treaties.

The Act corrects serious prejudices against the child-centric system by including measures that deviate from the norm of how children should be treated and provided with justice, care, and protection. Additionally, it seeks to guarantee that cases are decided and handled in a way that is in the "best interests" of the kid and ensure their eventual rehabilitation/reintegration into society through several establishments created in accordance with the Act's provisions. In order to address every facet of the interactions between minors and the legal system, this Act was further consolidated and changed in 2006.

Furthermore, in order to implement the provisions found in both international documents and the Indian Constitution, the Central Government made a noteworthy move in 2007 by creating the Model Rules under the Juvenile Justice Act. The purpose of the Model Rules was to better administer and execute, in text and spirit, the provisions of the Juvenile Justice Act. As they aims to strengthen a child-centric framework of suitable rules and operational and procedural guidelines for the purpose of rehabilitation and family reunification. Until the States and Union Territories create their own state-specific regulations, they must abide by them.

Children in Need of Care and Protection and Children in Conflict with the Law are the two kinds of children identified under the Act, and distinct institutions and procedures have been

established to address the needs of these children. Juvenile Justice Boards are the primary organizations for children who are in legal conflict Homes for Observation and Special Homes. With the primary goal of creating an alternative legal system for their rehabilitation, the Juvenile Justice Act governs "Juveniles in Conflict with the Law" in India. Thus, although a juvenile alternative system should, on the one hand, support decriminalization and deinstitutionalization in its initiatives, but it also needs to make sure that the rehabilitation process is robust and successful enough to keep them out of trouble with the law in the future.

In the UN CRC, there is a clear emphasis on the social reintegration of JICL: they are "to be treated in a manner consistent with the promotion of the child's sense of dignity and worth" and must take "into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society." The CRC also goes on to identify educational, vocational training and counselling among other needs as important for the well-being of these kids: "A variety of dispositions, such as care, guidance and supervision orders; counselling, probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence."

As essential requirements for juvenile rehabilitation, the Juvenile Justice Act also lists education, training, and counselling. These clauses were even clarified and thought out more thoroughly in the Model Rules. Sadly, however, there was a significant and much-needed gap between the successful execution of legislation and to be favoured.

GOVERNMENT BODIES

Established in 1952, the Indian Council for Child Welfare was the first national organization to organize volunteer involvement in every state in support of all elements of children's welfare. This Council deserves recognition for being the first to introduce a dedicated child welfare plan in the Third Five Year Plan. The Central Social Welfare Board was founded in 1953 and was fully funded by the state. Its initiatives to improve the lives of women and children eventually included child care projects and programs including rural Bal wadis, vacation houses, grants to over 7000 non-governmental organizations, orphanages, crèches, women's homes, etc.

In 1968, a group headed by Ganga Sharan Sinha was tasked with creating a program for children. The committee's report stated that it was impossible to assess children's requirements without taking into account their upbringing in a household. Its suggestions, therefore, covered a wide variety of topics, including programs for children's education, health and nutrition for moms and their offspring, common services to support families in order to ensure the child's well-being, and programs for children who are socially and emotionally challenged. For the future development of child welfare programs, two events that happened under the Third Plan are noteworthy. Firstly, a model that was embraced by numerous states involved the formation of a coordinating committee comprising all ministries that oversee child services under the cabinet secretary at the centre. Activities for children of different government departments were to be coordinated by the committee. A new set of ICDS services for children under six years old as well as nursing and expecting mothers developed from its investigations on the viability of combining various programs for pre-school children in urban slums, rural areas, and tribal areas. Among child welfare initiatives, the ICDS is still in the forefront.

The establishment of the Central Social Welfare Board's child-care committee to assess the fundamental requirements of India's kid population was the other. In order to address the preventative, nutritional, and pre-primary educational needs of pre-schoolers, the committee carried out a national study of local resources and modifications required for the pre-school program. This included the establishment of a new cadre of workers. Anganwadi's and Anganwadi workers replaced Balsevikas when the Bal wadi schemes were evaluated and their training was completed. These individuals have since been the cornerstone of immunization and nutrition programs.

Simultaneously, two more similarly significant institutions were established. The National Institute of Social Defense (NISD) was to handle social defense issues, while the Institute of Public Co-operation and Child Development (NIPCCD) was to handle child-related research, training, seminars, and studies. The NIPCCD is still the go-to organization for social worker education and child welfare and development research. Among, its responsibilities are educating institutional staff and convincing the states to adopt. To safeguard the development of women and children, the Ministry of Human Resource Development established the Department of Women and Child Development in 1985.

In addition to the ICDS, the department runs a number of additional programs, engages in inter-sectoral monitoring and lobbying, and attends to the needs of women and children. A National Commission for Children, headed by a former Supreme Court judge, will be

established to carry out the constitutionally guaranteed rights of children, according to the union HRD minister. The commission would be made up of seven members. That is still within the purview of promises, though.

LEGAL PROVISIONS

Since its enactment in 1950, the Indian Constitution has guaranteed children a particular place in the political system. Children are included in the sections that cover fundamental rights and the guiding principles of public policy, both of which are essential to the nation's government. The "principles of the Constitution for India" included in the Nehru Report stated, among other things, that (i) all Indian citizens, regardless of caste or creed, are entitled to free elementary education and (ii) Parliament must enact laws that are appropriate for preserving the nation's health and workforce readiness as well as the welfare of its youth.

Found in Articles 15(8), 24, 39(e) and (f), and 45 of the Constitution, these ideas were adopted in principle by the All-Parties Conference that was convened in Lucknow at the end of August 1928. The original provisions acknowledged, among other things, the following principles: (i) free primary education for all students, regardless of caste or creed; and (ii) Articles 15(3) and 24 were added later on in the Constituent Assembly Debates (CAD) but did not spark any debate. Although the draft provision preceding Article 24 was introduced in accordance with the Congress Declaration of 1933, the introduction of "children" in the proposed provision preceding Article 15(3) lacks an explanation. Despite the fact that these clauses were not discussed at the CAD, they nevertheless represent a consensus because the underlying ideas were considered and approved during the 1928 All Parties Conference. The term 'children' is added to Article 15 (3), which allows the state to pass laws specifically for women and children, which lends more credence to this interpretation. Age is not one of the several grounds that Article 15(1) of the Constitution forbids discrimination on.

Therefore, the state would not have refrained from providing special arrangements for them if Article 15(3) had not included the word "children." The Constitution's emphasis on children's particular needs is reflected in the fact that children are still included there.

The Constitution assures children under the age of 14 that they will not be employed to work in any factory, mine, or other dangerous employment, in addition to the fundamental rights that children enjoy alongside adults. Articles 39(e), (f), and 45 of the Constitution make an employment dangerous if it impedes the child's education or puts her/him at risk of exploitation. According to the Constitution, the state must safeguard vulnerable children from abuse and make sure they are not compelled to choose careers that are too mature or

physically demanding for them out of need of money. In accordance with Article 39(f), the state must additionally guarantee

that children and youth are shielded from exploitation and from the moral and financial abandonment of their parents, and that they are provided with the environment and resources necessary for a healthy, free, and dignified upbringing.

According to Article 45 of the Constitution, the state must make every effort to offer free and required education to all children until they turn 14 years old. Under Indian constitution, children should have a healthy upbringing, be free from abuse and exploitation, and not have to work as minors because it is just not financially feasible for them.

When it came to how the federal government and the states should divide up the subjects for legislation, this vision was a little hazy. The states were left in charge of crucial areas like education, justice administration, reformatories, and other similar institutions unless the welfare of children was seen as an essential component of social planning—which it was not, as evidenced by the pattern of legislation on children that followed. It continued to support inconsistent laws and methods of operation.

The 42nd Constitution (Amendment) Act of 1976 made the constitutional picture evident by moving the administration of justice and education to the concurrent list. Following the split, there was a surge in child-related laws due to the increased number of neglected and delinquent adolescents and the Constitution's unique status for children. A number of states passed the Children Acts in addition to a number of bills that were submitted in Parliament for the protection and care of children.

Dr. W. C. Reckless, a UN expert on criminology and correctional administration, offered suggestions for progressive prison management in India about the same period. In addition to providing juvenile courts, remand houses, probation, accredited schools, and after care, he recommended placing a high priority on the removal of juvenile offenders from adult jails, adult courts, and police lock-ups.

The UN Declaration of the Rights of the Child (1958) gave additional encouragement to pass a unique law for children. The Children Act 1960, often known as CA 60, was the first piece of central law passed in India and it was solely applicable to the Union Territories. It was passed as a guide for the states to follow when they passed their own Children Acts. For the first time in Indian history, the CA60 forbade the detention of minors in any situation.

Additionally, a definition of kid that discriminates against sex was introduced. It established

distinct adjudicatory entities, a child welfare board and a children court, to handle neglected and delinquent children, respectively. People with specialized training in child psychology and welfare were to staff these adjudicatory bodies. This Act established the three-tier institution system: a special school for delinquent kids, a children's home for neglected kids, and an observation home for kids while their cases are pending. Its provisions were included in every state Children Acts that were passed after the CA60.

The Children (Amendment) Act of 1978 was a result of the Gujarat High Court's decision to invalidate a clause that forbade the use of an attorney in juvenile court proceedings. Other challenges with the CA60's operation over time also contributed to this legislation. It allowed attorneys to appear in children's courts, allowed cases to be transferred between the board and the children's court, and promoted community involvement through initiatives including a panel of social workers supporting the children court, healthy individuals, healthy institutions, and safe places. Except for Nagaland, Orissa, Sikkim, and Tripura, every state passed its Children Act during the International Year of the Child. A Children Ordinance already existed in Bihar.

Nevertheless, there was little progress made in the centre's attempts to get the states with differing provisions to amend their Acts so that they were consistent with the Central Act. The concept of kid as defined by the Central Children Act was only modified by the states of Karnataka and Andhra Pradesh. Because of differing ideas about what it means to be a child and what childhood is, children have always been treated differently. Due to the states' legislative autonomy, the constitutional provision of equal protection under the law was compromised. In at least six states, there were differences in the age at which an individual was classified as a kid. Gujarat and West Bengal had set a mandatory age of eighteen for both girls and boys. It was sixteen years in Uttar Pradesh, Punjab, and Maharashtra. Tamil Nadu classified people under the age of 14 as children and those over the age of 14 but under the age of 18 as young people; institutions were created for these people based on this classification. Children in the same age group living in various states received varied treatment as a result of their age differences.

In Gujarat or West Bengal, a seventeen-year-old delinquent kid was eligible for all the advantages under the Children Act; however, if she had been born in Maharashtra or relocated there, she would have been regarded like an adult offender and would have ended up in one of the state's jails. Discrimination was also caused by the differing definitions of neglected and delinquent children.

According to the CA60, a kid whose parents were unable to care for her or him was considered ignored; however, this definition was not applicable under the Children Acts of Gujarat, Uttar Pradesh, West Bengal, Tamil Nadu, Andhra Pradesh, or Punjab. The Children Act was being effectively implemented in states like Maharashtra and Gujarat, bringing the public and volunteers into the fold and keeping children inside the social mainstream. The absence of this perspective in most states led to their estrangement from the community as well as detrimental effects on their growth and development. The various Children Acts also varied in how they approached institutions. The single institution used by Karnataka, Kerala, Maharashtra, Punjab, and Uttar Pradesh for both neglected and delinquent children went against the ideas of individualization and segregation. The minimum criteria, treatment plans, and other policies that were implemented by various states also differed based on state policy. The Children Acts of Madras, Punjab, and Uttar Pradesh allowed imprisonment under certain conditions, but the CA60 and other Acts that came after it expressly forbade it. If a delinquent child lived in an area where either no Children Act was in effect or the Children Act that was in effect allowed imprisonment, then the discriminatory provisions or enforcement of the various Children Acts might legitimately result in the child's sentencing to prison. Despite being passed, the Children Acts were only partially implemented in Assam and Jammu and Kashmir and completely non-operative in Sikkim, Tripura, Arunachal Pradesh, Chandigarh, and Lakshadweep by 1984–05. Even in locations where the Acts were implemented, the specialized machinery was either not assembled at all or was not assembled improperly.

The Central government demonstrated its incapacity to enact a Children Act on the grounds that its subject matter was under the state list of the Seventh Schedule of the Constitution, despite the need for a standard Children Act being underlined at both official and non-official fora. The need for a Children Act in every state has also been repeatedly stressed by the judiciary. The framework for establishing uniformity in juvenile justice laws across the nation was established by the UN General Assembly's adoption of the Beijing Rules in 1985, the Committee on Subordinate Legislation's 69th Report, which was presented to Parliament on May 12, 1986, and the Supreme Court's 1986 recommendation to begin parliamentary legislation on the matter.

At this point, it is important to acknowledge Sheela Barse's one-woman campaign for children's rights. Her focus was on the issues of uniform code for children's torus's differentiating writing and the illegal incarceration of minors in jails. participation in seminars and workshops, visits with the prime minister and other ministry staff, and

ultimately filing a public interest lawsuit to obtain information about the conditions of custody and release of children in jail. The removal of all children from jails and a number of other improvements were eventually brought about by the petition. Later, in response to a judicial order, the Supreme Court Legal Aid Committee took her position.

The Juvenile Justice Act, 1986 was passed by Parliament and became effective in all areas on October 2, 1987. With the exception of the state of Jammu and Kashmir, the JIA covered the entirety of India, but it essentially created a unified juvenile justice system across the board. The Juvenile Justice Act (JJA) also forbade the detention of minors in police lock-ups or jails, established distinct facilities for the processing, treatment, and rehabilitation of neglected and delinquent children, offered a variety of alternatives to family- or community-based placement for disposition, and encouraged the active participation of volunteer organizations at different phases of the juvenile justice system.

Dr. Hira Singh expressed the widespread worry that there was a significant discrepancy between the JIA's real procedures and its treasured ideals. The majority of states lacked the fundamental framework that includes after-care facilities, juvenile courts, juvenile welfare boards, observation houses, and juvenile homes. Institutionalization, with all of its negative consequences, persisted because there were insufficient alternatives for non-institutional care, such as foster care, non-institutional probation, sponsorship, etc. The majority of states did not specify the minimal standards for institutional care in terms of housing, upkeep, instruction, vocational training, or rehabilitation, even though they were mandated. Regarding the development of juvenile justice personnel, there was no clear policy in place. The ratification of the Convention on the Rights of the Child increased the already widening gap between rhetoric and reality.

In 1999–2000, a series of nationwide meetings were conducted regarding juvenile justice administration in an effort to improve the current, inadequate situation. Three different approaches to solving the issue surfaced. Some said that while the law had a good foundation, it needed to be properly implemented. It was feasible to employ legal strategy and take advantage of loopholes and spaces to uphold the letter of the law. The second opinion held that the law was insufficient by nature. It was necessary to make amendments to include a standard age for boys and girls, along with other non-institutional methods like adoption and foster care, and to promote community participation. The third viewpoint advocated doing away with the current legislation and replacing it with a new one. One other distinction within this method was (i) the creation of a single comprehensive code for children and (ii)

the creation of two laws, one addressing delinquent children and the other dealing with neglected children.

This context led to the appointment of a committee to draft a children's code, headed by Justice Krishna Lyer. On November 14, 2000, this committee submitted the Children's Code Bill 2000 to Prime Minister Atal Bihari Vajpayee. He guaranteed that the 2000 Children's Code Bill would be a useful addition:

In fact, the government will give careful consideration to the recommendations as it drafts legislation to ensure children's survival, development, and protection.

Justice Krishna Lyer was one of the many people who were consulted before the proposed Bill was finalized, but Maneka Gandhi did mention his name when the Juvenile Justice (Care and Protection of Children) Bill 2000 was introduced in the Lok Sabha and Rajya Sabha. In dealing with children, the JJ (C&P) Act 2000 acknowledges the family as a unit. Along with fining the parents and offering counselling to the family of a child in trouble with the law, it offers a greater variety of community placement choices, including adoption, foster homes, shelter homes, and sponsorship. Drafting that was too loose and uneven has tainted the otherwise admirable intentions behind the new legislation.

Reactions to the new Act have been divided. This Act was deemed to be against the best interests of children during a meeting attended by NGOs and other child advocates. The entire Act exuded an administrative criminal justice atmosphere. The youngsters who will be impacted by the act were not involved in its hasty and covert drafting. A second meeting praised the new laws, citing the UN Convention on the Rights of the Child as its inspiration for child welfare. The Delhi High Court has already received a petition contesting the legality of several JJ (C&P) Act clauses.