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Periodical Development of the Juvenile Justice System (Juvenile Justice System) in India

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Abstract

Separating the juvenile justice procedure from the criminal justice system was not always the standard in modern nations. For a very long time, juvenile justice was merely a subset of criminal justice, and young offenders were punished harshly in an attempt to uphold the status quo. Since there was no distinction made between juvenile and adult offenders, they were treated as though they were the same. Generally speaking, communities simply handled juvenile offenders in the same manner that they handled adult offenders. Even in societies that acknowledged youth as a separate social category, punishment for adults and juveniles was the same.

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1.1 Introduction

What we now refer to as juvenile justice only arose outside of the adult criminal justice system after centuries of human civilisation had advanced, making the idea of supporting a distinct system of justice for children a relatively recent innovation in the history of both human civilisation and the administration of justice. Ordinary social contact was governed by uniformly enforced rules established by the code of Hammurabi, which supplemented tribal custom. The only purpose of the laws that we now refer to as juvenile justice provisions was to maintain Babylonian patriarchy, which subjected all members of society to extremely severe penalties for misbehaviour.

The role of children in Roman society and the family was outlined by the patria parens patriae idea. "A parent has the authority to grant or revoke his children's life," states the parens patriae concept. When it came to parental discipline, the government did not intervene. Without the consent of their father, children had no rights. As the empire's legal system developed over time, the rigid parens patriae was eventually loosened, allowing fathers to possess any property possessed by family members. Pope Clement XI originally introduced the idea of "instruction of profligate youth in institutional treatment" in 1704. Elizabeth Fry then established a specific center for juvenile offenders. The Reformatory Schools Act and the Industrial Schools Act were later passed by the British government. The movement against harsh punishments for young offenders began in 1772 when special accommodations were granted to juvenile offenders in civil courts. Nonetheless, parens patriae was the dominant theory governing the treatment of juveniles, and the system had a significant impact on later English juvenile justice philosophy. Separating the juvenile and criminal courts was attempted in the last decades of the 1800s. In 1874, Massachusetts mandated that minors attend special court sessions known as children's tribunals. The state of Illinois passed the Chicago Reform Act in 1855. In 1877, a similar statute requiring the segregation of juvenile and adult offenders was passed in New York. In 1898, Rhode Island passed legislation pertaining to juvenile courts. In 1899, Colorodo passed the first mandatory school statute in the nation, which established the process for trying truant "juvenile disorderly persons." Although none of these attempts were successful in creating a juvenile court system in the modern sense, the laws that were in place were definitely forerunners of the current system..

1.2 Historical Development of Juvenile Justice System in India

India's juvenile justice system began during British control and was developed in response to Western ideas and developments in juvenile justice and jail reforms. Nevertheless, the measures taken to combat adolescent misbehaviour

in India were not limited to those employed in England. There aren't any notable distinctions between the juvenile court created by the English Children Act of 1908 and the Madras Children Act of 1920. However, successive children's Acts eliminated the necessity for solicitors, following the example of the parent's patriae model in American juvenile courts. Since their establishment in Scandinavia, juvenile welfare boards have been a mainstay of legislation pertaining to the care of abused and neglected children since 1960.

The legal frameworks of juvenile justice systems in many Western countries have developed in a similar manner. It was initially recognised that minors could not be prosecuted for such offences because they lacked the developmental maturity to completely understand the seriousness of their actions. Before the 1900s, juvenile and adult offenders received the same treatment. .[1]

Despite making up only 10% of the total population, young people made up over 25% of the criminal population. Sixty-five percent of the criminals were younger than fifteen. The rapid increase in juvenile delinquency and the inefficiency of correctional facilities necessitated the development of new strategies for handling young offenders. Prison reformers were against releasing juvenile offenders into adult prisons, just as they were against placing them there. When it was discovered that keeping juvenile and adult offenders in the same facility had detrimental effects, juvenile correctional facilities and reformatories were created. The concept of segregation in the criminal justice system led to the creation of juvenile courts and the implementation of separate hearings for various offences. Petty sessions were used to hear cases involving theft and larcenies committed by kids under the age of fourteen in 1847 thanks to the English Juvenile Offenders Act. The Summary Jurisdiction Act of 1879 permitted adolescents under the age of sixteen to be tried without a jury for nearly all indictable offences.

1.2.1 Prior to 1773

Support for offspring was a part of Hindu and Muslim law. Parents and family members had the main duty of raising children. Providing for the care of children when their families are unable to do it directly is an admirable goal in both Hindu and Muslim law.[2] According to Muslim law, anyone who finds an abandoned baby and has reason to be concerned for its life has a duty to take care of it.

Neither Muslim nor Hindu law addressed juvenile offenders. However, a cursory examination of the Manusmriti and the Hedaya indicates that different penalties are imposed for different offences committed by children. For example, a minor who defecates on a public road is not penalised under Hindu law. Children received only reprimands and were not obliged to clean up the mess, unlike adults

who faced penalties and orders to clean up similar circumstances. It was illegal for a minor to engage in sexual activity with an adult lady who gave her consent under Muslim law. These regulations demonstrate the accepted notion of reduced culpability for the unlawful behaviour of minors. Additionally, both legal systems contain general penological ideas that can be applied to customise punishment for each individual. According to Muslim law, the purpose of punishment is correction, and various persons have varying attitudes about this issue. While some are suitably corrected by reprimands, others are more obstinate and require physical punishment or even confinement. When it came to punishing a criminal, Hindu law required the king to determine the crime's cause, the time it occurred, the offender's capacity for pain, and the most suitable form of punishment.

1.2.2 Period between 1773 and 1850:

Muslim law states that anyone who discovers an abandoned infant and has cause to worry about its survival has an obligation to care for it.

Hindu and Muslim law did not deal with young offenders. A quick look at the Manusmriti and the Hedaya, however, reveals that different punishments are meted out for various transgressions committed by minors. For instance, Hindu law does not penalise a youngster for urinating on a public road. Unlike adults, who were punished and required to clean up comparable situations, children were just reprimanded and were not required to clean up the mess. Under Muslim law, it was forbidden for a minor to have sex with an adult woman who had given her consent. These rules illustrate the well recognised idea of diminished responsibility for the illegal actions of juveniles. Furthermore, general penological concepts found in both legal systems can be used to tailor punishment to the needs of each individual. The goal of punishment, according to Muslim law, is rectification, and different people have different opinions on this matter. Some are more stubborn and need physical punishment or even incarceration, while others can be appropriately addressed with reprimands. According to Hindu law, the king had to decide the most appropriate kind of punishment, the cause of the offence, the time it happened, and the offender's capacity for pain before punishing them..[3]

1.2.3 Period between 1850 and 1919:

1850–1919 were marked by industrial and social revolutions. The Apprentices Act of 1850 was the first law requiring vocational training to be provided to young criminals between the ages of ten and eighteen as part of their rehabilitation.[4] Many legislation addressing different facets of children's lives were passed during this time. The Vaccination Act of 1880 and the Female Infanticide Act of 1870 both made an effort to safeguard the health and lives of infants. Guidelines for the

continued care and protection of children were created by the Guardianship and Wards Act of 1890, while the Factories Act of 1881 recognised the presence of child labour and the need for special laws addressing it. A law that forbade the violent kidnapping of children was proposed in the criminal justice field in 1848 after a 7-year-old girl was abducted for revenge. Although it was prohibited under the current legislation to remove girls forcibly without their parents' consent in order to sell or prostitution, it was initially thought that this instance did not fall under the Regulation. Because the case involved an unlawful trespass, the proposed law was put on hold. To "better enable children, and especially orphans and poor children brought up by public charity, to learn trades, crafts and employments by which they may, when they reach full age, earn a livelihood," the Apprentices Act of 1850 was enacted. It permitted courts to bind young criminals as apprentices to learn a profession, skill, or occupation for ten to fifteen years, as an alternative to locking them up. This law provided a community-based alternative to locking up young offenders for minor offences, and for the first time ever, it gave legislators a cause to take neglected youngsters into consideration. The Apprentices Act of 1850 marked the beginning of child-related legislation, which was followed by the Indian Penal Code of 1860 IPC and BNS 2023, which created the presumption of men's area and declared children under the age of seven to be doli incapax..

1.2.4 Period between 1919 and 1950

Delinquent behaviour is less harshly punished than crime in our society, and the law considers children to be less responsible than adults. One of the most important sources of information about India's juvenile justice system is the Indian Jail Committee's 1919–20 reports. As part of its vast endeavour to improve the entire prison system, the committee travelled to many prisons and reformatory schools both domestically and outside. Madras had been working on a Children's Act since 1917, and in June 1920 the law was finally passed. The committee's recommendations helped other states enact legislation akin to this one. According to the 1919–1920 jail committee, since 1889, the prison administration has prioritised the operational features of the institution while paying little attention to the potential for intellectual and personal development of the inmates. According to the committee, "all authorities, including the courts, must more clearly acknowledge the primary duty of keeping people out of prison, if it can be done." Juvenile offenders were one demographic that swiftly gained popularity among those looking to be released from prison. because subsequent research, policy declarations, and other formats have mirrored them. They are still as relevant today.

1.2.5 Post -1950 Period

Juvenile justice has changed since its founding in 1950 in response to several official and unofficial developments. Throughout this era, several methods, some of which are legal, have been devised to provide care and welfare measures for children.

Five Year plans

After the planning commission was established in 1951, the Five-Year Plans were created with provisions for children. Nevertheless, the plans did not include funding expressly for the implementation of juvenile justice-related initiatives.

The implementation of federal and state laws pertaining to juvenile delinquency and neglect remains within the purview of the individual states. In India, where a socialist society is the ideal end state, "the welfare of the family is the ultimate aim of economic development" with regard to these tactics. A child is a family's most precious asset. As a result, India made children's welfare a top priority in its planned national development strategy. Tara Ali Baig stated simply, "It was definitely not apparent in their planning." The creation of the child welfare working group to help formulate the Eighth Five-Year Plan, the separation of child care from the women and children slot, and other rather extensive financial adjustments gave her a more positive perspective after 10 years.

Conclusion

After being approved by Parliament, the Juvenile Justice Act of 1986 went into effect in all jurisdictions where it had been extended on October 2, 1987. The Juvenile Justice Acts essentially standardised juvenile justice across India, even though they did not apply to Jammu & Kashmir. A prohibition on the segregation of children for processing, treatment, and rehabilitation purposes, a range of alternatives to family and community-based placement for youths with different dispositions, and a significant role for voluntary agencies across the Juvenile Justice system are just a few of the other provisions established by the Juvenile Justice Act.

The Juvenile Justice (care and Protection of Children) Bill 2000, which was presented to the Lok Sabha and Rajya Sabha in 2000, did not include the Children's Code Bill 2000 at all, even though Maneka Gandhi stated that Justice Krishna Iyer was one of the numerous people consulted before the proposed Bill was finalised. The Juvenile Justice (Care and Protection of Children) Act, 2000, serves as the primary foundation for juvenile justice in India. The law asks for a special approach to address juvenile criminality and provides a framework for the Juvenile Justice system to protect, care for, and rehabilitate minors under its purview. In 1992, India adopted the United Nations Convention on the Rights of the Child (UNCRC), which led to the repeal of

the Juvenile Justice Act of 1986. This new legislation was created to comply with the UNCRC. The purpose of the Juvenile Justice (Care and Protection of Children) Act,[5] 2000 was to update and reform laws concerning the care and protection of children and young people who are having legal issues.

The new JJ measure 2015's "Judicial Waiver System" has drawn the greatest criticism of any part of the measure. Under some circumstances, this system allows juveniles to be treated and punished in the adult criminal justice system. The requirement of such a clause in India's history is unusual. After reviewing the bill in light of the harsh criticism, a Standing Committee of Parliament decided to reject the problematic elements. The administration went ahead and proposed the Bill in the Lok Sabha, where it has already been approved, because the Standing Committee's recommendations are not legally binding.

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