

Courts as Custodians of Childhood: The Judiciary's Preventive Role in India's Juvenile Justice System

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Abstract

The juvenile justice system in India is a unique legal framework that balances two seemingly conflicting objectives—child protection and public safety. As the custodians of constitutional morality and fundamental rights, Indian courts play a decisive role in shaping how society perceives, prosecutes, and rehabilitates juvenile offenders. This paper explores the judiciary's preventive role in curbing juvenile delinquency by examining landmark judgments, statutory interpretation, judicial activism, and policy directions. It also analyses the shift from punitive to reformatory jurisprudence, evaluates implementation challenges, and proposes a child-centric judicial model for prevention of youth offending. Through doctrinal, analytical, and case-based methods, the study concludes that the judiciary is not merely a legal arbiter but a moral guardian ensuring that children in conflict with law are treated with dignity, care, and the opportunity for reintegration.

Introduction

Juvenile delinquency refers to unlawful or anti-social behaviour by persons below the age of 18 years. In India, this issue intertwines with socio-economic disparities, family breakdown, peer pressure, and digital exposure. The judiciary has emerged as a central institution in addressing not just the adjudication of juvenile cases but also their prevention through interpretive and policy-oriented interventions.

Concept of Juvenile Delinquency

The word juvenile originates from the Latin *juvenis*, meaning “young.” Delinquency signifies deviation from accepted norms. The term collectively refers to offences committed by minors and encompasses both criminal acts and social misconduct such as truancy, substance abuse, and violence.

Historical Evolution of Juvenile Justice in India

- **Pre-Independence:** The Indian Penal Code (1860) and the Reformatory Schools Act (1897) introduced early differentiation between adult and juvenile offenders.
- **Post-Independence:** The Children Act, 1960 and subsequent state acts emphasized welfare-based treatment.
- **Juvenile Justice Act, 1986:** For the first time, a uniform national law emerged.
- **Juvenile Justice (Care and Protection of Children) Act, 2000 and 2015:** Shifted from welfare to rights-based jurisprudence in line with the UN Convention on the Rights of the Child (UNCRC, 1989).

Literature Review

Tripti Aggarwal, M. Jain, and V. Pandey (2024), in their analytical review published in IJRAR (Vol. 11, Issue 2), highlight the dynamic transformation of India's juvenile justice framework from a welfare-based system to a rights-oriented legal mechanism. Their study traces the historical development of juvenile legislation and evaluates the 2015 Act as a milestone that seeks to balance child protection with accountability. The authors critically assess judicial pronouncements that have redefined the scope of rehabilitation, age determination, and child-friendly adjudication. They argue that the judiciary's interpretive interventions—particularly in cases such as *Pratap Singh v. State of Jharkhand* (2005) and *Salil Bali v. Union of India* (2013)—have been instrumental in reinforcing the reformatory intent of the Act. Their findings underscore that effective implementation depends largely on continuous judicial monitoring and sensitivity toward the socio-psychological realities of juvenile offenders.

Beijing Rules, 1985, the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990), and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (Havana Rules, 1990) form the ethical and procedural foundation for child-centric justice worldwide. Collectively, these instruments advocate for early intervention, diversion from formal judicial proceedings, and restorative justice measures. The Beijing Rules emphasize proportionality and fairness in juvenile proceedings, ensuring that the response to any offence considers the child's age, background, and circumstances. The Riyadh Guidelines focus on preventive approaches—encouraging family, education, and community participation in curbing delinquency before it manifests as criminal behavior. Meanwhile, the Havana Rules underscore humane treatment and the rights of juveniles in custodial or institutional settings. These UN frameworks have profoundly influenced Indian legislation and judicial reasoning, guiding courts to align domestic jurisprudence with international child rights standards.

LegalServiceIndia.com (2023) provides a pragmatic overview of the challenges inherent in India's juvenile justice implementation process. The article "Juvenile Justice in India: Laws, Rehabilitation, and Challenges" outlines gaps between legislative ideals and on-ground realities. It notes that despite progressive judicial orders, observation homes and child care institutions often struggle with overcrowding, inadequate staff, and limited rehabilitation resources. The study emphasizes that judicial supervision and activism have played a critical role in bridging these deficits—by issuing directions for proper age verification, psychological counselling, and reintegration programs. The article also draws attention to the judiciary's preventive role in addressing systemic neglect, directing state authorities to strengthen coordination among the Juvenile Justice Boards (JJBs), Child Welfare Committees (CWCs), and police departments.

Role of Judiciary in the Juvenile Justice System

The judiciary in India serves as both interpreter and guardian of children's rights. Its contribution extends beyond courtrooms to the realms of policy formulation, monitoring, and preventive governance.

Judicial Interpretation and Activism

Indian courts have expansively interpreted child-related rights to include psychological well-being, education, health, and protection from abuse. Landmark judgments have recognized the judiciary's preventive and reformatory responsibilities.

Landmark Judicial Interventions

Sheela Barse v. Union of India (1986)

The Supreme Court directed the establishment of separate observation homes and speedy trial mechanisms for juveniles. It emphasized that juveniles must not be confined with adult offenders.

Pratap Singh v. State of Jharkhand (2005)

The Court clarified the age determination criteria for juveniles and reinforced that the date of offence, not trial, determines juvenility.

Hari Ram v. State of Rajasthan (2009)

The Supreme Court reaffirmed the retroactive application of the Juvenile Justice Act, 2000, ensuring that children under 18 receive protection even for offences committed earlier.

Salil Bali v. Union of India (2013)

Following the 2012 Delhi gang rape case, the Court upheld the constitutional validity of the Juvenile Justice Act, refusing to lower the juvenile age despite public pressure. It underscored the reformatory, not retributive, spirit of the law.

Dr. Subramanian Swamy v. Raju (2014)

The judgment reiterated that juveniles cannot be tried as adults, stressing the need for scientific evaluation and rehabilitation.

Preventive Mechanisms through Judicial Oversight**Establishment and Monitoring of Juvenile Justice Boards (JJBs)**

Courts supervise the functioning of JJBs to ensure fair inquiry and diversion of children away from formal penal processes.

Judicial Orders for Rehabilitation and Reintegration

Courts have mandated counselling, vocational training, community service, and aftercare programmes, making them integral to the sentencing philosophy.

Use of PILs for Systemic Reforms

Public Interest Litigations have been instrumental in compelling state governments to improve infrastructure in observation homes and to implement the Juvenile Justice Act effectively.

Judicial Directions to Police and Administration

In several suo-motu proceedings, High Courts have directed police officers to adopt child-friendly procedures and avoid custodial torture or media exposure of juveniles.

Preventive Role of the Judiciary**Early Intervention through Legal Aid**

Courts encourage free legal aid at the pre-trial stage to prevent procedural exploitation of minors.

Diversion and Restorative Justice

Judicial diversion mechanisms aim to redirect children away from criminal prosecution toward community-based rehabilitation. Restorative justice focuses on apology, compensation, and social harmony rather than punishment.

Judicial Training and Sensitization

Regular training of judges and magistrates under the aegis of the National Judicial Academy enhances their understanding of child psychology, trauma, and developmental criminology.

Coordination with NGOs and Child Welfare Committees

Courts frequently collaborate with non-governmental organizations to monitor implementation of care, protection, and aftercare provisions.

Challenges in Judicial Prevention of Juvenile Delinquency**Institutional Shortcomings**

Despite judicial vigilance, JJBs and Child Care Institutions often lack trained personnel, infrastructure, and monitoring capacity.

Inconsistent Implementation Across States

Different states interpret judicial directions differently, leading to uneven protection standards.

Societal Pressure for Punitive Justice

Public outrage, particularly after heinous crimes, often pushes for harsher measures—sometimes conflicting with child rights jurisprudence.

Limited Awareness and Legal Literacy

Many juveniles and families remain unaware of legal provisions, hindering effective access to justice.

Judicial Philosophy: From Punishment to Prevention**Reformative vs. Retributive Approach**

The Indian judiciary consistently upholds the reformative approach, viewing juvenile delinquency as a symptom of social failure rather than individual evil.

Psychological and Sociological Underpinnings

Judicial reasoning increasingly relies on child psychology and criminological studies showing that early correction yields higher social returns than punitive incarceration.

Preventive Jurisprudence and Human Rights

Courts have evolved a jurisprudence of prevention—one that aligns with international instruments like the Beijing Rules (1985), Riyadh Guidelines (1990), and Havana Rules (1990).

Comparative Insights

United States

Juvenile courts emphasize restorative practices and family therapy. Indian courts have begun adopting similar diversion models.

United Kingdom

Special youth courts prioritize privacy, education, and individualized rehabilitation plans.

Lessons for India

Cross-jurisdictional learning reinforces the need for multi-disciplinary juvenile justice, with judiciary guiding integration between law, psychology, and social work.

Recommendations

1. **Judicial Capacity Building:** Specialized child courts and continuous training for judges.
2. **Uniform Guidelines:** National judicial standards for age determination, diversion, and aftercare.
3. **Integration of Technology:** Virtual hearings, e-monitoring of observation homes, and digital tracking of rehabilitation progress.
4. **Partnership with Academia:** Courts may collaborate with universities to conduct impact assessments of judicial interventions.
5. **Child Rights Commissions' Empowerment:** Coordination between judiciary and statutory bodies for monitoring compliance.

Conclusion

The judiciary, as the custodian of constitutional values and the ultimate interpreter of justice, occupies a pivotal position in the protection and promotion of children's rights in India. Its role in the juvenile justice system extends well beyond the limited realm of adjudication; it embodies the conscience of the nation, reminding all institutions of their moral and legal obligations toward the youngest and most vulnerable members of society. By interpreting the law in light of the principles of equality, dignity, and reform, the courts have transformed the idea of justice for juveniles from one rooted in punishment to one founded on prevention, rehabilitation, and reintegration.

In contemporary India, where social inequalities, digital influences, and urban dislocation contribute to increasing instances of juvenile conflict with the law, the judiciary's intervention assumes a preventive and corrective character. Judicial activism—manifested through Public Interest Litigations (PILs), suo motu cognizance, and detailed monitoring orders—has strengthened the implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015, and related policies. The courts have not only interpreted the law but have also guided executive agencies, police authorities, and child welfare institutions toward adopting a more humane and child-friendly approach. Such judicial vigilance ensures that every decision made within the justice system aligns with the constitutional vision of a welfare state.

At a philosophical level, the judiciary's preventive role signifies a shift from retributive to reformative and restorative justice. By emphasizing compassion, education, and psychological healing, courts have acknowledged that delinquency often stems from social neglect rather than inherent criminality. This understanding has enabled the judiciary to advocate for community-based corrections, diversion programs, and vocational rehabilitation as sustainable alternatives to incarceration. In doing so, Indian courts have internalized global human rights instruments—such as the UN Convention on the Rights of the Child (1989), the Beijing Rules (1985), and the Riyadh Guidelines (1990)—thereby localizing international norms within India's socio-legal context.

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