

Discuss some of the functions and responsibilities of Juvenile Justice System. Do you believe that Juvenile Justice has played its role in ^{the} prevention of juvenile crime in Pakistan?

1) Introduction

"What judgement pronounce
you upon him who though
honest in his flesh yet
is the thief in spirit?"

Khalil Gibran

When it comes to crime every country takes especial care while investigating the case of a juvenile. Juvenile is a person who has not attained their 18th birthday. In every country there are special courts to consult cases of juveniles delinquency. Juvenile justice system of any country is meant to provide rehabilitation and support to its youth; with the goal of helping them reform and reintegrate into society as responsible and law-abiding individuals.

2) Functions of the Juvenile Justice System

Juvenile justice system in every country has a wide range of functions some of them are as follows:

- i) Reduce youth involvement in crime;
- ii) Maintain public safety
- iii) Skill development

iv) Habilitation, the process of enhancing the independence, well-being, and level of functioning of an individual with a disability or disorder by providing appropriate resources.

v) Rehabilitation

vi) addressing treatment needs

vii) Successful reintegration of youth into community.

3) Responsibilities of Juvenile Justice System

The realm of responsibilities of juvenile justice system is wide with some are as follows:

i) To ensure providing information to youth parents or guardians about every step of the process.

ii) Ensuring that throughout the process of apprehending the child, inquiry aftercare, rehabilitation, the rights of the child are protected

iii) If the child fails to understand the language in which proceedings are conducted, the board shall provide an interpreter or translator with prescribed qualification and on payment of prescribed fee.

iv) To give final orders that includes individual care plan for child's

Rehabilitation including followed up by the Probation officer or the district child protection unit or a member of NGO required.

v) Conducting inspection of jails meant for adults to check if any child is lodged in such jails and take immediate measures for transfer of both such child to the observation home.

4) History of Juvenile Justice System of Pakistan : Before Partition

Prior to JSSO 2000 Pakistan had four major laws for dealing with delinquents. These are Reformatory School Act 1897, The Punjab Borstal Act 1926, The Sindh Children Act 1955, and The Probation of Offenders Ordinance 1960. All these laws have been in place since their promulgation but found inactive for all practical purposes. Apart from these acts, Section 399 of Pakistan Criminal Code 1988 provided for the confinement of child delinquent sentenced to imprisonment below the age of 15-year to reformatory school established by the provincial government concerned. However, until 1947 all these laws remained dormant and neglected.

5) Juvenile Justice system of Pakistan: After Partition

After the Partition took place some serious efforts were made in order to avoid complications in future. In the year of 2000, the introduction of JJSO 2000 appeared as a milestone achievement as Pakistan viewed it as compliance to UN Convention of Rights of Children which was ratified by Pakistan in 1990. Thereafter, retired General Pervez Musharraf issued a notification in 2001, granting remission of those offenders found to be below the age of 18-years-old. Despite these efforts the loopholes were still there to challenge the system of Pakistan.

5.1) Failure and shortcomings of JJSO 2000 :

JJSO 2000 and Presidential notification miserably failed in safe guarding children to the reason that child delinquents directed to severe barbaric punishments of medieval time. For example, the case of Sher Ali Zool and Mohammad Nadeem Case in 2000, Mohammed Nadeem was sentenced by an Additional Sessions Court in Lahore to 273 years' imprisonment and co accused Sabir was sentenced to 63 years' imprisonment in the same case. The purpose of developing a juvenile justice

System got lost due to reluctance of the authorities upon implementation of JSSo 2000.

6) To Counter Shortcomings of JSSo 2000 JISA 2018 Implemented

On May 18, 2018, the President of Pakistan approved the Juvenile Justice System Act (JISA) 2018. It was passed to overcome the shortcomings which were present in Juvenile Justice System Ordinance 2000. The Act defines a child according to the definition of UNCRD as "a person who has not attained the age of eighteen years."

The 2018 Juvenile Justice System Act (JISA) aimed at to replace the previous ordinance and address its inherent gaps, but whether it successfully eliminated these gaps remains a subject of debate.

7) Arguments on whether Pakistan has Played its role in Preventing Juvenile Crime

In this era of progressing human rights, justice for all stands as a vigorous concern globally. In Pakistan the JSSo 2000 as well as JISA 2018 came up in harmony with the UNCRD and other international instruments, including the Nelson Mandela

Rules and the Beijing rules, with an intent to save safeguard the rights of children. But it is not without its shortcomings. According to the United Nations office of Drugs and Crime, the juvenile delinquency rate in Pakistan is 2,200 per 100,000. This is significantly higher than the global average of 1,000 per 100,000 people. There are many reasons behind these numbers.

7.1) Flaws of the Age Determination Mechanism:

In 2018, the JSSA law in Pakistan said that anyone under 18 is considered a child, while this law is respected, it can also be used by some to commit illegal acts because maturity varies from person to person, as mentioned in the Farooq Ahmed vs. Federation of Pakistan case by the Lahore High Court. Again in the case of Sultan Ahmed, the court said even if the issue of juvenility is not brought up initially, the presiding officer still investigate and gather relevant documents, summon people, and obtain medical reports to determine the person's age. However in the case of Muhammad Aslam, the court stated that simply showing a school leaving certificate is not enough to prove juvenility. So there should be a more clear law and a panel of experts to check the maturity of offenders.

For example, After the 2012 Delhi gang-rape case (Nirbhaya case) in India, the country changed its law to address the shortcomings of the previous one. This was prompted by public outrage when a 17-year-old was acquitted of murder by claiming to be a juvenile, so they enacted a body of psychologists to check if offender has an adequate knowledge of crime committed.

7.2) Inability to Establish Doli incapax

The 2018 Juvenile Justice System Act doesn't incorporate the principle of "doli incapax," which stems from Article 40(3)(c) of the UNCR. The principle suggests ~~that~~ setting a minimum age for children who should be exempt from criminal liability due to their inability to understand the nature and consequences of their actions. While section 82 and 83 of the Pakistan Penal Code align with this principle, the JJSA 2018 overlooks it, creating inconsistency in the legal framework.

7.3) Training of Special Police officers: Rule 12 of the

Beijing Rules emphasizes the importance of specialized training for law enforcement officials dealing with juvenile cases. India has implemented such rules in its legal framework, creating specialized police officers for juveniles. However, the JJSA 2018 fails to address this adequately, not providing special training; instead, it only mentions the need for an additional social welfare officer

to assist in investigations, which is insufficient.

7.4) Lack of Juvenile Courts: The JSSA 2018 in Pakistan has a significant problem with the lack of juvenile courts. Despite the law's demands, the state has been slow in creating courts, with just 13 in the whole country. This leads to children being treated in regular courts. Even in Islamabad there is no record of a single juvenile court. The law also calls for the creation of juvenile justice committees under section 12 of the JSSA 2018, but progress is extremely slow, with none established even a year after the law was enacted.

7.5) Lack of Observational Homes: The JSSA 2018 mandates the establishment of observation homes for temporarily detaining juveniles after arrest or during physical remand. However, key questions still unanswered: who will provide and manage these homes? will they operate independently or under police authority? what facilities will be available? Unfortunately, since the enactment of JSSA 2018, no such homes are in place. Juveniles are often confined in adult-like cells, exposing them to adult criminals and increasing the risk of violence. This dire situation in Pakistan's juvenile detention system exposes children to torture, harassment, and sexual abuse, undermining the very purpose of this system.

7.6) The Need for Rehabilitation: Bangladesh has effective child development centers (CDCs) that offer services like playgrounds, vocational

trainings, Primary education and more. These centers, like one in Tongji, can accommodate many children and follow a structured daily routine. Pakistan should consider adopting similar reforms to break the cycle of child crimes. Justice Salahuddin Panwari, in a Sindh high court judgement, highlighted the state's responsibility in providing child protection under the Sindh Child Protection Act's section 10. Besides, Rule 22 of Beijing Rules calls for professional strategies to improve justice systems, but the JSSA 2018 in Pakistan lacks such provisions. In Pakistan every law should align with the constitution of 1973, such as Article 25(3), Article 34, and Article 37.

8) **Critical Analysis:** The challenges in Pakistan's juvenile justice system stem from law enforcement agencies not effectively implementing the laws. Legislation alone is not enough it requires effective implementation. The UN has criticized Pakistan for its inadequate law implementation. Parliament creates laws but often neglects the need for strong mechanism for both drafting and implementation of these laws. Besides, monitoring bodies are crucial for achieving successful outcomes. The JSSA 2018 also contains provisions that might be seen as discriminatory, such as granting exceptional bail privileges to children under 16, even in cases of heinous offenses. This could potentially be misused due to societal variations into socioeconomic norms. Having these all issues, it is crucial for the superior judiciary to address these issues. They can learn from cases like the

Peshawar High Court's judgement in the case of Zeb Sar vs. MST. Kosar, which imposes limitations on bail for children involved in serious crime or who are habitual offenders

a) Conclusion: To address the serious shortm shortcomings in Pakistan's juvenile justice system Act of 2018 and effectively combat child crimes, the country can learn from neighbouring India and Bangladesh, which share similar socioeconomic conditions. Key obstacles include language complexities, discriminatory provisions, infrastructural deficiencies, and ineffective law enforcement agencies. To improve, Pakistan must prioritize education, strengthen centers, and provide necessary training for those overseeing these institutions. Parliament should play a crucial role in enacting legislation that not only addresses the problem but also fills gaps in enforcement.