

A Critical Appraisal of Juvenile Justice System in Pakistan: Challenges and Way-forward



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Abstract: *This research paper aims to provide a critical analysis of the juvenile justice system in Pakistan. It explores the strengths, weaknesses, and challenges associated with the system, with a focus on ensuring the protection and rehabilitation of juvenile offenders. The paper examines key legislative frameworks, institutional structures, and procedural aspects of the juvenile justice system, and evaluates their effectiveness in meeting international standards and addressing the needs of juvenile offenders. For this research paper, a qualitative methodology was employed, utilizing both primary and secondary data. The primary data consisted of interviews, official documents, and unpublished materials. The secondary data was derived from books, journals, research articles, and other published materials. The collected data and sources were extensively analyzed using the content analysis method. The study has additionally identifies potential areas for improvement and proposes recommendations to enhance the juvenile justice system in Pakistan.*

Keywords: Juvenile, Justice, Pakistan, Corruption, Poverty

Introduction

The legal framework and processes concerning young offenders are encompassed by the juvenile justice system. In adherence to the law, individuals who have not reached adulthood are subject to the jurisdiction of the juvenile system in Pakistan. The significance of the juvenile system in any nation lies in its role of guiding wayward youth towards a positive trajectory. As it marks the beginning of their lives, a robust juvenile system becomes crucial when addressing serious crimes committed by juveniles. Mishandling the situation with either excessive or insufficient punishment could adversely impact their future, potentially leading to the development of hardened criminals. (Iftikhar, 2019)

Legislation and implementation of children's

rights in Pakistan have been slow and uneven, mirroring the sluggish policymaking. The deep-rooted issues of corruption, poverty, and deprivation contribute significantly to the rising crime rates. Anticipating a parallel increase in juvenile offenses, it is crucial to acknowledge that children, due to their vulnerability, demand heightened care in the handling of juvenile proceedings and cases compared to adults. (Mahmood, 2004)

Manipulating or fabricating charges to settle personal vendettas is a well-known practice in Pakistan. Regrettably, the criminal justice system in the country has been unsuccessful in addressing this specific problem. In certain instances, children are coerced into confessing to crimes they did not commit. This coerced admission occurs because the actual perpetrator

may escape consequences, and the child, given their age, might receive a less severe punishment. (Malik, 2019)

Moreover, Poor cognitive development, family violence, maltreatment, antisocial behaviours, and association with deviant peers let children towards committing crimes. The juvenile justice system has a vital role in protecting the rights and welfare of juvenile offenders, with a focus on rehabilitating them and facilitating their reintegration into society. Similar to numerous other countries, Pakistan has faced noteworthy scrutiny and concerns regarding the treatment and management of juvenile offenders. Therefore, it is imperative to thoroughly comprehend and critically assess Pakistan's juvenile justice system. This analysis is crucial for identifying its strengths, weaknesses, and areas that require improvement, ultimately ensuring its alignment with international standards and optimal practices. (Nisar, 2015)

Pakistan Legal Framework

The foundations of Pakistan's juvenile justice system can be linked to laws implemented by colonial rulers prior to the nation's independence in 1947. These laws, exemplified by the Reformatory Schools Act 1897 and the Borstal School Act 1926, were designed to establish specialized institutional treatment for young offenders with the goal of facilitating their rehabilitation. As a member of the United Nations, Pakistan has a comprehensive set of laws addressing various issues related to children. The Constitution of Pakistan, serving as the supreme law, provides numerous guarantees and safeguards for children's rights. Additionally, both national and provincial laws operate at the federal and regional levels. Despite the presence of provincial laws, a unified nationwide law was absent until the introduction of the Juvenile Justice System Ordinance in 2000. (Shujaat, 2015)

The Juvenile Justice System Ordinance of 2000 was adopted by General Pervez Musharraf with the intention of developing a fair, centralized, and standardized system to deal with juvenile offenders. This legislation substantially complies with globally accepted guidelines and

methods for addressing the needs of young people engaged in criminal activity.

The adoption of the Juvenile Justice System Ordinance marked a significant turning point in Pakistan's attempts to protect and advance the welfare of young offenders. This ordinance's main goal was to create a comprehensive legislative framework that prioritised juvenile offenders' rehabilitation and effective reintegration back into society while attending to their basic needs. In order to do this, the law established specialised juvenile courts, which were crucial in managing cases involving young criminals. In order to guarantee that minors' rights and due process were respected throughout the legal process, it also specified the processes relating to the arrest, imprisonment, trial, and punishment of juveniles. (Sajid, 2009)

Pakistan, as a signatory and ratified member of the United Nations Convention on the Rights of the Child (CRC), is obligated to adhere to its guidelines. The Juvenile Justice System Ordinance of 2000, which aligned with international standards, has been superseded by the Juvenile Justice Act passed in 2018. This new legislation serves as a comprehensive law aimed at safeguarding the rights of juveniles who come into conflict with the law. Alongside the CRC, numerous international and national legal mechanisms exist to offer special care and protection for children in Pakistan. (Fayyazuddin, 1998)

Pakistan, as a committed participant in upholding international human rights standards, has ratified numerous significant treaties. These include the Convention on the Rights of the Child (CRC), which specifically focuses on safeguarding and promoting the rights of children, particularly those involved in conflicts with the law. Noteworthy among the international instruments Pakistan has ratified are the Universal Declaration of Human Rights (UDHR) of 1948, the International Covenant on Civil and Political Rights (ICCPR) of 1966, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) of 1966, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979, and the Convention against Torture

(CAT). (Hussain, 2009)

Every international human rights treaty encompasses a diverse range of recommendations for state parties, urging them to promote and protect the rights of children within their respective countries. Among the notable international documents dedicated to children's rights, the Convention on the Rights of the Child (CRC) holds significant importance. Pakistan demonstrated its commitment to children's rights by being one of the initial six nations to sign and ratify the CRC in 1990. Prior to the promulgation of the 18th Amendment in the 1973 Constitution, federal laws had national jurisdiction and were applicable to all provinces. Presently, federal laws are effectively applicable to all provinces unless any particular province chooses to repeal them. (Sajid, 2009)

INSTITUTIONAL STRUCTURES

The Juvenile Justice System Ordinance (JJSO) 2000 is the main framework governing the institutional structure of the juvenile justice system in Pakistan. Its purpose is to establish a distinct system to address the needs of children who have engaged in unlawful activities. The JJSO acknowledges that children involved in criminal acts require special attention and safeguarding, with a primary goal of facilitating their rehabilitation and successful reintegration into society.

Here is an overview of the institutional structure of the juvenile justice system in Pakistan:

1. **Juvenile Courts:** The JJSO includes provisions for the creation of dedicated juvenile courts that handle cases related to children in conflict with the law. These specialized courts are tasked with carrying out legal proceedings, which involve the evaluation of cases, determining appropriate verdicts, assigning suitable sentences, and overseeing the rehabilitation process of the juveniles involved.
2. **Juvenile Justice Committees:** As per the JJSO, Juvenile Justice Committees are required to be established at the district, tehsil, and village levels. These committees consist of representatives from relevant government departments, civil society organizations, and child welfare agencies. Their primary responsibility is to actively participate in the implementation and monitoring of juvenile justice policies and programs at the local level. These committees play a vital role in ensuring the effective execution of juvenile justice measures and the supervision of initiatives related to the welfare and rehabilitation of children involved in the justice system.
3. **Probation Officers:** A team of probation officers is designated to handle cases involving children in conflict with the law. These officers are responsible for conducting social inquiries, gathering relevant information about the child's background, and preparing pre-sentence reports that assist the court in making informed decisions. Additionally, probation officers oversee and provide guidance to children placed on probation or parole, ensuring their adherence to court orders and aiding their smooth reintegration into society.
4. **Child Protection Units:** Within the juvenile justice system, specialized units known as Child Protection Units (CPUs) are established within law enforcement agencies. CPUs are entrusted with the initial contact and processing of children who have come into conflict with the law. They play a crucial role in safeguarding the rights of these children during arrest, detention, and investigation processes. CPUs are responsible for ensuring the child's well-being, providing support and ensuring their rights are protected throughout their involvement in the legal system.
5. **Juvenile Rehabilitation Centers:** Recognizing the significance of rehabilitating and reintegrating children involved in criminal activities, the JJSO places immense emphasis on this aspect. Juvenile rehabilitation centers, also referred to as Borstal institutions, are established specifically for this purpose. These centers provide comprehensive care, education, and skills training to the juveniles throughout

their rehabilitation period. The primary objective is to reform and reintegrate these juveniles into society, equipping them with the necessary tools to become responsible citizens (Hilal, 2021).

6. **Ministry of Human Rights:** The Ministry of Human Rights in Pakistan plays a vital role in the juvenile justice system. It takes on the responsibility of formulating policies, implementing them, and monitoring their effectiveness. The ministry collaborates with other relevant government departments, non-governmental organizations (NGOs), and international agencies to safeguard children's rights and ensure the smooth functioning of the juvenile justice system. The Ministry of Human Rights works towards protecting the rights of children in conflict with the law and strives to create an environment that promotes their well-being and rehabilitation. (Zaman, 218)

Procedural Aspects

Arrest: The arrest of juvenile offenders in Pakistan is governed by the Juvenile Justice System Ordinance 2000, which was replaced by the Juvenile Justice Act in 2018. These legislative frameworks recognize the peculiar status of children and prioritize their protection during the arrest process. Key provisions include setting the age of criminal responsibility at seven years, eliminating the requirement for an arrest warrant for juvenile offenders, mandating the presence of a parent or guardian during the arrest, emphasizing privacy and confidentiality, prohibiting excessive force or violence, and ensuring separation from adult offenders. However, it is important to note that different legal resources may provide varying recommendations for specific arrest procedures. (Malik, 2022)

Detention: Investigation into the detention conditions and facilities for juvenile offenders in Pakistan reveals efforts to provide separate specialized centers that adhere to international standards. These centers aim to promote rehabilitation, education, and well-being tailored to the needs of juveniles. However,

challenges remain in meeting international standards due to issues such as overcrowding, limited resources, and inadequate infrastructure. The duration and circumstances of juvenile detention vary, with a focus on exploring alternative options whenever possible. Monitoring by probation officers and other authorities helps ensure the well-being and rights of juveniles, though efforts are ongoing to strengthen oversight mechanisms. Continuous improvement is needed to address challenges and align with international standards for the rehabilitation and well-being of juvenile offenders in detention.

Trial: The trial of juvenile offenders in Pakistan is assessed for fairness and child-friendliness. Specialized courts or procedures exist to cater to their needs. Confidentiality is maintained to protect their privacy. However, challenges like limited resources and procedural delays need improvement. Consultation of relevant laws is recommended for specific trial procedures. (Sani, 2022)

Sentences: Factors considered in sentencing juvenile offenders in Pakistan are evaluated for proportionality, taking into account age, maturity, and individual circumstances. Alternative measures to incarceration, such as probation and rehabilitation programs, are explored and implemented. However, the effectiveness and accessibility of these measures require ongoing improvement. Consultation of relevant laws and guidelines is advised for a deeper understanding of sentencing factors and available alternatives.

Rights and Safeguards: The protection of rights and safeguards for juvenile offenders is analyzed to ensure their well-being. This includes legal representation, access to resources, and support during their interaction with the justice system. Rehabilitation and reintegration programs are assessed to address the causes of delinquent behavior and promote personal development. However, challenges like limited resources and societal stigma impact the effectiveness of these efforts. Continuous improvement is necessary to strengthen support services. Consulting relevant legislation, policies, and reports is recommended for a

comprehensive understanding of the rights and programs for juvenile offenders in Pakistan.

Rehabilitation and Reintegration

In order to address the root causes of delinquent behavior and facilitate the successful reintegration of young offenders into society, rehabilitation and reintegration play a crucial role in the juvenile justice system. The main objective is to promote personal growth, education, career preparation, and psychological support.

In Pakistan, rehabilitation programs for young offenders encompass a range of interventions, including counseling, therapy, education, vocational training, life skills development, and substance abuse treatment. These programs are tailored to meet the specific needs of each offender, equipping them with the necessary tools and support to make positive changes in their lives.

Regarding reintegration, efforts are made to ensure that young offenders make a seamless transition back into their communities. To facilitate their effective reintegration and lower the risk of criminal convictions, this entails offering aftercare services, including mentorship, help finding a job, and continuous support. However, it's crucial to evaluate the accessibility and efficiency of Pakistan's rehabilitation and reintegration programmes. The effectiveness and results of these programmes may be impacted by variables including scarce resources, poor staff training, and social stigma. Enhancing the availability, accessibility, and quality of rehabilitation and reintegration programmes for young offenders requires ongoing review and improvement. (Malkani, 2022)

CHALLENGES AND ISSUES

Despite the presence of the Juvenile Justice System Ordinance, Pakistan's juvenile justice system faces significant challenges and deficiencies in its implementation. One notable issue is the problem of overcrowding in detention centers, which strains the capacity to provide adequate care and rehabilitation for juvenile offenders. Insufficient resources pose

another challenge, limiting the ability to offer comprehensive support and services to young individuals in conflict with the law. Procedural delays further hinder the effective functioning of the system, potentially resulting in prolonged periods of detention and delayed access to justice for juvenile offenders. Additionally, there is a dire need for specialized training programs for professionals working within the juvenile justice system to ensure that they possess the necessary skills and knowledge to handle the peerless needs and circumstances of young offenders. Addressing these challenges and deficiencies is crucial to enhancing the overall effectiveness and fairness of Pakistan's juvenile justice system (Malik, 2018).

The challenges faced by the juvenile justice system in Pakistan have a considerable impact on the rights and well-being of juvenile offenders. Insufficient resources hinder the provision of crucial services like education, healthcare, and mental health support, which are vital for their rehabilitation and reintegration. Overcrowded detention centers expose them to increased risks of violence, abuse, and neglect, compromising their protection and safety. Procedural delays deny juveniles their right to a speedy trial, leading to prolonged detention and hindering their chances of successful rehabilitation and reintegration.

Addressing these challenges is crucial to safeguard the rights and well-being of juvenile offenders. It requires allocating adequate resources, improving infrastructure, and enhancing the capacity of professionals working in the juvenile justice system. These measures are necessary to overcome the challenges and establish a more effective and child-centered approach to juvenile justice in Pakistan (Noor, n.d.).

International Standards and Comparative Analysis

International standards and comparative analysis play a key role in evaluating and improving the juvenile justice system in Pakistan. By comparing the practices and standards of other countries, Pakistan can identify areas of strength and areas that require

improvement in its own system.

International standards, such as those outlined in the United Nations Convention on the Rights of the Child (CRC), provide a framework for protecting the rights of juvenile offenders. These standards emphasize the importance of treating juveniles in a manner consistent with their age, maturity, and specific needs. They promote the use of diversionary measures, community-based alternatives to detention, and rehabilitation programs (Fatima, 2021).

Comparative analysis allows Pakistan to assess how its juvenile justice system measures up against those of other countries. By examining the practices and outcomes in different jurisdictions, Pakistan can identify successful strategies and best practices that can be adopted or adapted to its own context. It also provides an opportunity to learn from the challenges and shortcomings faced by other countries and avoid potential pitfalls.

Through international standards and comparative analysis, Pakistan can enhance its juvenile justice system, align it with global norms, and ensure the protection of the rights and well-being of juvenile offenders. It promotes a continuous process of evaluation, improvement, and learning from international experiences to create a more effective and child-friendly juvenile justice system (Malik, 2018).

Findings and Recommendations:

Based on the analysis of the juvenile justice system in Pakistan, several key findings have emerged:

1. **Lack of Resources:** The system suffers from a lack of resources, including inadequate funding, limited staff, and insufficient facilities. This hampers the provision of essential services for juvenile offenders, such as education, healthcare, and rehabilitation programs.
2. **Overcrowded Detention Centers:** Detention centers for juvenile offenders are often overcrowded, leading to increased risks of violence, abuse, and neglect. The overcrowding undermines the safety and well-being of the juveniles and hinders their

rehabilitation and reintegration into society.

3. **Procedural Delays:** Procedural delays, including lengthy trial processes, result in prolonged periods of detention for juvenile offenders. This denies them their right to a speedy trial and impedes their chances of successful rehabilitation and reintegration.
4. **Limited Specialized Training:** Professionals working in the juvenile justice system often lack specialized training in dealing with the specific needs and rights of juvenile offenders. This hinders the effective implementation of rehabilitation and support programs.
5. **Insufficient Focus on Rehabilitation:** The system places a disproportionate emphasis on punishment rather than rehabilitation. There is a need to shift the focus towards rehabilitation programs that address the underlying causes of delinquent behavior and promote the personal growth and development of juvenile offenders.

Based on the analysis of shortcomings and challenges in the juvenile justice system in Pakistan, the following recommendations are proposed to address these issues:

1. **Strengthen Resources:** Allocate adequate resources, including funding, staff, and facilities, to ensure the provision of essential services such as education, healthcare, mental health support, and rehabilitation programs for juvenile offenders.
2. **Reduce Overcrowding:** Implement measures to address overcrowding in detention centers, such as expanding capacity, developing alternative sentencing options, and promoting community-based alternatives to detention.
3. **Expedite Judicial Procedures:** Take steps to reduce procedural delays and ensure a timely resolution of juvenile cases. This includes training judicial personnel, streamlining processes, and adopting technology to expedite court proceedings.
4. **Enhance Rehabilitation Programs:** Improve the quality and accessibility of rehabilitation

programs by providing comprehensive services tailored to the specific needs of juvenile offenders. This may include counseling, therapy, vocational training, life skills development, and drug misuse treatment.

5. **Promote Restorative Justice:** Encourage the use of restorative justice approaches that focus on repairing harm, involving victims, and reintegrating juvenile offenders into the community. This can contribute to their rehabilitation and reduce recidivism rates.
6. **Strengthen Legal Representation:** Ensure that all juvenile offenders have access to legal representation, including qualified and trained lawyers, to safeguard their rights and ensure a fair trial process.
7. **Establish Monitoring Mechanisms:** Implement effective monitoring and oversight mechanisms to ensure compliance with international standards, protect the rights of juvenile offenders, and address any violations or abuses.
8. **Enhance Collaboration and Coordination:** Foster collaboration among stakeholders, including government agencies, non-governmental organizations, and community-based organizations, to work together in addressing the challenges and implementing reforms in the juvenile justice system.
9. **Raise Awareness and Sensitize Society:** Conduct public awareness campaigns and training programs to sensitize society about the rights and needs of juvenile offenders, combat stigma, and promote a supportive and inclusive environment for their reintegration.
10. **Continuous Evaluation and Improvement:** Establish a system of regular evaluation and review to monitor the implementation of reforms, assess their impact, and make necessary adjustments to further improve the juvenile justice system.

These recommendations aim to address the identified shortcomings and challenges by bringing about legislative reforms, improving

institutional structures, and enhancing procedural aspects of the juvenile justice system in Pakistan. They strive to promote a system that protects the rights and well-being of juvenile offenders, facilitates their rehabilitation and reintegration, and ensures a fair and child-friendly approach to juvenile justice.

Conclusion

To conduct a comprehensive analysis, it is essential to review pertinent legislation, regulations, and policies that govern the juvenile justice system in Pakistan. The progress in legislating and implementing children's rights has been slow and inconsistent. This is also reflected in the policymaking process. The country faces deep-rooted challenges of corruption, poverty, and deprivation, which contribute to an increase in the crime rate, including juvenile offenses. As a result, children require special attention and care in juvenile proceedings and cases.

The phenomenon of false accusations for personal vendettas is unfortunately prevalent in Pakistan. Regrettably, the criminal justice system in the country has been unable to effectively address this issue. In some cases, children are coerced into admitting crimes they did not commit. This happens because the real offender may escape punishment, and the child may receive a lighter sentence due to their age.

Additionally, valuable insights can be obtained by consulting case studies, reports from human rights organizations, and scholarly articles, which shed light on the procedures involved in handling juvenile cases. These sources contribute to a thorough examination of the juvenile justice system in Pakistan.

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