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Juvenile Justice System Implications and Overview of Resolved Cases in Punjab, Pakistan

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Abstract

The juvenile justice system has been designed to protect the juveniles' rights to avoid sentencing like adults, especially the death sentences. The current study analyses the practical implication and overview of the resolved cases under the juvenile justice system Act 2018 and juvenile justice system ordinance 2000. It is qualitative exploratory research that goes through the content analysis of case laws based on the different crimes; having weapon, attempt to murder, possession of narcotics, rape cases, accused treatment as an adult offender, dispute of age and birth certification, dispute on sentencing the accused base on the age factor. It is found that in various cases, the juveniles have been released on bail after the approval of their age less than sixteen years. The study finds that the juvenile justice system Act 2018 and juvenile justice system ordinance 2000 are significant to protect the children's rights and prevent them from being addicted and professional criminals due to their physical and psychological protection from the jail environment. It concludes that such acts are necessary to provide the juveniles a platform to prove themselves innocent, indulging the age factor and preventing them from the evil influence of rigid and predetermined punishments of their intentional and unintentional committed crimes. The study suggests that policymakers consider the practical stances of the law implementation in the field before introducing the complete law at ground level. This research will be useful for the law-enforcing agencies, policymakers and academicians to have rich insight into the juvenile justice system Act 2018, Juvenile Justice System Ordinance 2000 and its practicality.

Keywords: Children, Implementation, Juvenile justice system, Protection, Rights.

Introduction

In the past few years, the juvenile justice system is shifted towards renewed compassion and individualization of juvenile justice practices from the previous punitive policies (Bolin et al., 2019). It is attempted to prevent the juveniles from harming unlawful behavior resulting from the crime they committed for the first time involving minor or severe offenses (Nash & Bilchik, 2009). Consequently, the international and national concerns highlighted this issue to transform the juvenile justice system to enforce the beneficial outcomes to ensure the young offenders are unaffected by the stigma surrounding imprisonment (Benekos & Merlo, 2019). It has been found that children and youngsters commit fewer severe offenses than mature people (Dünkel & Pruin, 2012). They also have a less developed cognitive system as compared to adults to understand the severity of their committed crime (Cauffman & Steinberg, 2012). That is why child criminals need to be treated differently than adults. If they are punished as adults for any offense, it will violate the rights of non-discrimination under the Human Rights Law. HRL allows the state to negotiate and make exceptions based on the true nature of the crime and the child's age at the time of the offense (Raha, 2019). For this purpose, juvenile prisons and counts have been established worldwide to check and deal with the matters of juvenile offenders. The Government of Pakistan established The Juvenile Justice System Act 2018 that stated that children below eighteen years old should be dealt with differently under juvenile courts compared to adult offenders. Torture should be avoided and laboring work, handcuffing and death sentences should also be avoided (Pervez, 2018).

The literature also found that the police failed to determine the actual age of offenders at the stage of registration after committing the offense. They just put the juveniles under the age category of 16 to 18 years by their physical appearance without ossification test as envisioned by the law. They are also not being separated from the adults and sent to separate courts of juveniles for trials except a judicial complex in Lahore (Coleridge & Ghulam Qadri, 2006). In Pakistan, several laws and acts have been approved to treat juvenile delinquency, but there are some weaknesses in the system's basic infrastructure that hinders their practicality. There are also some political law-making institutions to deal with such delinquencies of juveniles but less in number.

Furthermore, the established rehabilitation centers are not equipped with enough equipment to rehabilitate the children back to Society after the decision-making of their offense. The environment of these centers is not convincing at all, and the condition is very reprehensible. The Borstal system is regulated by the jail manuals that need to be regulated under the Borstal Act to ensure credibility (Government of Pakistan, 2009). This system has not provided any record of the country's juvenile offenders and the periodical reports to show the official data of juvenile delinquency and offenses (Ijaz, Madni & Akhtar, 2021). Since 2000, most children involved in murder cases have been sentenced to death due to their unintended crimes (Malik & Sherazi, 2010). This led to juvenile offenders being sentenced to death and suffering from abuse and violence during imprisonment and investigation before the offense proved against them that is against their dignity. The lowest age of offender accountability is also an attention-seeking issue in Pakistan regarding the self-esteem of juvenile offenders. Now is given overriding influence on juvenile justice system Act 2018 and Juvenile Justice System Ordinance 2000 to prevent the juvenile offenders' accountability in anti-terrorist counts including Anti-Terrorist Act, 1997 (Malik, 2019).

International Laws for Juvenile Justice

Juvenile justice as a significant issue did not seek attention until the late 19th century in law, containing legal and international treaties. The worldwide juvenile justice system focused on juvenile offenses and proposed protecting them from law abuses. Various countries have adopted protective measures in their national legal system to protect the juveniles' interests (Liefwaard, Todres &

King,2020). Following are some international laws associated with the international juvenile justice system:

- International Covenant on Civil and Political Rights (1966) stated that a death sentence should not be imposed for the crimes committed by a person less than eighteen years of age.
- The UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), also known as Beijing rules, was adopted on November 29, 1985, to protect the well-being of children.
- The UN Convention on the Rights of the Child (CRC) (1989) gave a complete description of the protection of children to ensure the rights available to them. Article 37 and Article 39 specifically discussed the protection of children from sentencing like adults and protection from keeping them in adults' prison. They also have the right to attain legal help and prove themselves innocent.
- The UN Rules for the Protection of Juveniles Deprived of their Liberty (1990) comprised the standard to manage the juvenile justice system.
- The UN Guidelines for the Prevention of Juvenile Delinquency (1990) provides guidelines for preventing juvenile delinquency.
- The UN Guidelines for the Action on Children in the Criminal Justice System (1997), also known as Vienna guidelines, were adopted to protect the children that addressed the state, NGOs and media.
- Furthermore, the International Juvenile Justice Observatory was established in 2002 in Brussels to encourage the globe for juvenile justice and tackle the issues related to juvenile delinquency and justice issues. These international laws have taken adequate measures to protect the well-being of juveniles and make it an obligation on the state to act legally, confirming such recommendations and policies (Petriola, 2009; Liefwaard, Todres& King,2020).

Juvenile Justice Laws in Pakistan

The insight of these international laws urges the state to take the responsibility of specific measures to bring justicereforms in the laws, institutions and policies for the better interest of child-serving. First Act that has been passed and implicated isSindh Children Act (1955) deals with juvenile justice in Pakistan. Later on,the government approved some other important laws to prevent juvenile delinquencies, e.g.,Sindh Borstal Schools Act (1955), Reformatory School Act (1897), Juvenile Smoking Ordinance (1959),Employment of Children Act (1991), Punjab Youthful offenders Ordinance (1983), Probation of Offenders Ordinance (1960), Punjab Children Ordinance (1983) Punjab Borstal Act (1926)and Bonded Labor System (Abolition) Act (1992). Then the major ordinance named Juvenile Justice System Ordinance (2000) is passed and implicated for the proper legislative process to pursue juvenile justice over the country (Shah et al., 2020). Moreover, Pakistan Government also ratified the Convention on the Rights of Children (CRC) and the United Nations International Covenant on Civil and Political Rights (ICCPR) that pursued the restriction on the capital punishment of juvenile criminals (Hasan & Adil, 2020).

Reasons for Juveniles' Involvement in Crime

The individuals are not born offenders but are made and brought up by the Society they live in (Ahman& Murtaza, 2016). The Daily Times published a report of the Society for the protection of the Rights of Child SPARC that included 1500-2000 children being incarcerated in various prisons of Punjab, excluding juvenile trial offenders (Rafique, 2017). In Pakistan, illiteracy and poverty served as the main causes of disorder among many people. Unstable family systems without adequate resources and forensic histories also caused juvenile delinquencies (Ahman& Murtaza, 2016). A recent study by Saeed, Khushhal, Ullah and Zahid (2020)also disclosed various reasons for juvenile

delinquency, including attainment of material possessions as lust, an adaptation of illegal ways to fulfill the basic needs, lack of proper supervision, and recreational facilities, improper educational quality, fortification and attention from family and deviant community environment. Other reasons are also included in juvenile offenses, e.g., domestic violence, land disputes, aggressive cultural traits, and bonded and forced child labor. Furthermore, parents' lack of social and economic support systems also pushed the children into delinquent acts (Saeed, Khushhal, Ullah & Zahid, 2020). It is also found that 32.5% of the juvenile respondents committed the crime at the age of 16 years (Ahmed, Barech & Farooq, 2020). These reasons are inherited through their upbringing and socialization while living with a broken family or ignored community. Therefore, considering their initial reasons for juvenile crimes is their basic right to be treated differently from adults.

Why is Prevention Needed Separately for Juvenile Offenders?

The children are at the developmental stage of their life when they indulge in crime. The major reason for separating the juvenile justice system from the matured criminal justice system is their social construction of childhood. At this level of adolescence, children's brain's physical and mental features are not developed like adults. The child cannot recognize what he/she has done and its consequence (Chughtai et al., 2021). They are unable to take responsibility for their actions, unlike adults. They need guidance and nurturing to be developed into responsible people and get a chance to rectify their deviant law actions (Malik et al., 2021). Moreover, Islam also allows the reformation, rehabilitation and social integration of children in Society, which are considered modern concepts of juvenile justice that transpired from Islamic laws (Chughtai et al., 2021). The children who commit crimes do not deserve to be treated as adults because of their unawareness of the consequences of action; therefore, they deserve less to be blamed and punished the way adults are punished (Munir, 2018). Therefore, a separate juvenile justice system is justifiable to deal the children differently from adult criminals below eighteen years of age. It is essential to protect the children from the negative influence of violence and aggressive content in prisons and courts to keep their mental and physical development healthy for their better standard of future (Hasan & Adil, 2020).

Methodology

This research is based on secondary qualitative data. The data is organized and verified from the official website of law ([Pakistan Law Site](#)) to check the implication of the juvenile justice system Act 2018 and Juvenile justice system ordinance 2000 to resolve the children's delinquencies and its reasons. Following is the detail of the number of cases included in the study.

Table 1

Detail of juvenile cases included in the study

Year	No. of juvenile cases	Punjab cases	Murder including kidnapping, weapons	rape, robbery and rioting	Narcotics	Rape	Other (rash driving, forced nikah)
2017-22	101	33	19+7=25		3	2	2

Note: Adopted from Pakistan Law Site

The majority of cases resolved are associated to juvenile justice system ordinance 2000 in which later on juvenile justice system Act 2018 added more value and weightage from 2018 to 2021. The analysis

is carried out by implicating content analysis. The resolved cases from Punjab have been selected to overview.

Results of the Study

Table 2

Description of cases with the decision by content analysis

	Case #	Crime	Offender action	The decision by considering JJSA 2018
1.	Muhammad Umar Vs. State (PLD 2021 Lahore 586)	Attempt to Qatl-i-amd	No confession	Released on bail, the court decided to make the final decision within six months.
2.	Waleed Hassan Vs. State (2021 PCrLJ 1801)	Attempted to Qatl-i-amd, Rioting armed with deadly weapons	Delay in trail	Released on bail, fine 400,000 rupees
3.	Muhammad Yasir Vs State (2021 PCrLJ 895)	Rash driving injured two people	Admitted offense	Released on extendable bail until pay Daman of 20,000 to a victim within six months
4.	Sajid Rasul Vs Asralan Zain- Ul-Abidin (2021 MLD 2088)	Qatl-i-amd,	Application of plea to be juvenile	Documents proved the juvenile, not offender, petition dismissed.
5.	Muhammad Tauraib Vs. Muhammad Taimoor Khan (2021 PCrLJ 1050)	Attempted to Qatl-i-amd, Rioting	Applied for pre-arrest bail	The offender being juvenile kept under the custody of a suitable person or juvenile rehabilitation center. Later the petition has dismissed.

6.	Najeeb Ullah Vs State (2021 PCrLJ 18)	Narcotics substance discovered	Regretted on wrongdoing	Ten months of the sentence with bail bonds. A fine of PKR 10000. Later the application was dismissed.
7.	Sikandar Hayat Vs State (2020 PLD 559)	Qatl-i-amd,	The claim of juvenility at the time of the offense	The declaration of juvenility at the time of offense has rejected, but the death penalty was reduced to life imprisonment. Petition dismissed and left to appeal refused unanimously.
8.	Saleem Khan Vs State (2020 PLD 356)	Qatl-i-amd, voluntarily causing hurt in committing robbery	Admitted causing intentional hurt	Allowed bail with a fine of 200,000
9.	Muhammad Iqbal alias Bali Vs. province of Punjab through Secretary home Punjab (2020 PLD 739)	Qatl-i-amd	Resubmitted appeal to convert death penalty into lifetime imprisonment	Commutated death sentence into lifetime imprisonment
10.	Muhammad Sher Khan Vs. State (2020 PCrLJ 1158)	Qatl-i-amd	Resubmitted appeal to prove himself juvenile at the time of the crime	The court accurately determined age with the ossification test, and the request were dismissed after revision being lenity.
11.	Tajammul Abbas Vs. State (2020 PCrLJ 627)	Qatl-i-amd	Resubmitted appeal to convert death penalty into lifetime imprisonment	The court was perfect following the law, so instant criminal revision has dismissed

12	Saqlain Vs State (2020 PCrLJ 374)	Qatl-i-amd	Resubmitted appeal to prove himself juvenile at the time of the crime	Criminal revision has devoid of any force was dismissed as he was above 18 years at the eventful day. So, the case was dismissed.
13	Dost Muhammad Vs State (2020 MLD 1384)	Qatl-i-amd	Claim himself to be minor at the time of the event	Revision petition in hand allowed as some documents proved accused minor.
14	Muhammad Ahmad Vs. State (2020 PCrLJN 36)	Qatl-i-amd by throttling	Claim to be under the influence of narcotics	Sufficient doubts if the accused was released forthwith if not included in any other case. Case property has been disposed of.
15	Muhammad Usman Vs. state (2020 PCrLJ 799)	Zina-bil-Jabar	Case favored him as the victim's claim was doubtful	The appeal allowed to revise the sentence of 15 years and a fine of 10,000
16	Muhammad Sohail alias Saila Vs. State (2019 MLD 1982)	Attempted to Qatl-i-amd with robbery	The accused was co-accused with minor age and appealed not to confirm the death sentence.	The appeal was allowed with bail forthwith if the accused was not filed in any other case until. While accused death penalty was negative, with lifetime imprisonment status as 'not confirmed.'
17	Allah Ditta alias Dittu Vs State (2019 PCrLJ 1316)	Qatl-i-amd, rape, the disappearance of evidence	Confession of crime	Lifetime imprisonment with a fine of 200,000.
18	Mst. Jamila Vs. State (2019 PCrLJ 1176)	Recovered narcotics	Not guilty and resubmitted appeal to prove himself juvenile at the time of the crime	Admitted to bail furnishing of bail bond 50,000

19	Muhammad Adnan Vs State (2018 PLD 823)	Possession and trafficking of narcotics in his auto	Incarcerated for eleven years and is major	The appeal was allowed to incarcerate the accused with sadden influence on the court.
20	Zia alias Mithu Vs State (2018 PCrLJ 1919)	Qatl-i-amd,	Juvenile at the time of offense with unintentional murder	Bail granted with the further inquiry with a furnishing bail bond of 200,000
21	Muhammad Ayyaz Vs. State (2018 PCrLJ 132)	Qatl-i-amd, abettor offense	Claimed to be juvenile at the time of the offense	Case remanded by reconsidering age
22	Ahsan Ullah alia Ehsana Vs State (2018 PCrLJN 53)	Qatl-i-amd	Plea of juvenile has been taken after the lapse of 14 years of sentence requested lifetime imprisonment than the death penalty.	The proceedings proved the false claim of the accused to prolong the proceedings with no legal forces. So, the petition was dismissed.
23	Zaheer Abbas Vs. Ghulam Nawaz alias Ranjhoo (2018 PCrLJN 27)	Qatl-i-amd	Claimed to be juvenile at the time of the offense	Revision of the petition was allowed. Case remanded.
24	Intizar Hussain Vs. Hamza Ameer (2017 SCMR 633)	Qatl-i-amd	Claimed to be juvenile at the time of the offense	Petition dismissed
25	Abdul Nabi Vs. State ((2017 SCMR 335)	Qatl-i-amd, act of terrorism, Zina-bil-jabar	Reappraisal of evidence	The death sentence was reduced to life imprisonment; then, the appeal was dismissed.

26	Farhan Vs. State (2017 YLR 1605)	Qatl-i-amd, abetment. Common intention	Claimed to be juvenile at the time of the offense	Revision of petition was allowed
27	Faiz Rasool alias Faizi Vs. Province Punjab (2017 YLR 134)	Qatl-i-amd, act of terrorism, Zina-bil-jabar	Claimed to be juvenile at the time of the offense	The death sentence was reduced to life imprisonment by the compromise between two parties. The common petition was allowed.
28	Sajjad Serhani Vs. State (2017 PCrLJ 474)	Qatl-i-amd	Claimed to be juvenile at the time of the offense	Based on medical and ossification tests, revision of the case is allowed.
29	Sharafat Ali Vs. State (2017 MLD 399)	Attempted to Qatl-i-amd, Rioting armed with deadly weapons, kidnapping	Claimed to be juvenile at the time of offense after spending two years in jail	Post arrest bail was granted by furnishing a bail bond of 500,000.
30	Shehzad Ashraf Vs. State (2017 YLRN 439)	Qatl-i-amd, abetment. Common intention	Claimed to be juvenile at the time of offense after spending more than three years in jail	Post arrest bail was granted by furnishing a bail bond of 10,00,000.
31	Ghulam Murtaza Vs. State (2017 YLRN 255)	Qatl-i-amd	Reappraisal to minimize the sentence	Reduced quantum of the sentence has already been undergone, so the appeal was dismissed.
32	Mohammad Ilyas Vs. State (2017 YLRN 71)	Forced Nikah	Determination of age	Revision was dismissed

33	Wishal Masih Vs State (2017 YLR 2031)	Rape of a minor girl	Claimed to be juvenile at the time of the offense	Conviction and sentence of accused were maintained by sending him to Borstal institution until he attained the age of eighteen years or for the period of imprisonment, appeal dismissed.
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Note: Adopted and analyzed from legal and registered website Pakistan Law Site

Table 2 describes the cases references and the court decisions by considering the juvenile justice system Act 2018 and Juvenile Justice System Ordinance 2000. In the last five years, the resolved cases registered and verified on the Pakistan law site are 33 under the influence of the juvenile justice system Act 2018 and Juvenile Justice System Ordinance 2000. The majority of the cases are related to murder and other criminal intentions. In some cases (4 out of 33), the offender did not know the severity and consequences of crime at the time of offense due to an undeveloped cognitive state and admitted their crime. The court decided to be lenient as being minor and released them on bail. The majority of the juvenile under the supervision of parents and guardians appealed to revise and re-examine the age at the time of offense after attaining the knowledge that based on juvenile, the individual's punishment could be lenient and revised (18 out of 33 cases). The data also disclosed that those under the age of eighteen years at the time of offense were sentenced differently than the adults if the crime had been committed unintentionally (8 out of 33 cases). Such juveniles were also recommended to be rehabilitated under the responsible guardian or Borstal institution to keep them away and socialize in civilized manners. Moreover, some such cases are also found in which the offenders were dangerous and intentionally committed the crime (7 out of 33 cases). They appealed to be dealt with as juvenile and minor at the offense time to prolong the hearing duration and delay the sentence. Unfortunately, there are also a few cases where the offender and the guardian did not know about the juvenile justice system Act 2018 and Juvenile Justice System Ordinance 2000 for dealing and releasing the offenders who mistakenly indulged in crime. They spent two to fourteen years in jail to complete the hearing and proved to be innocent (3 out of 33 cases). This weakness has ruined the lives of some individuals due to improper dealing and filing the case without the juvenile justice system Act 2018 and Juvenile Justice System Ordinance 2000 that the police, lawyers and judges did not consider.

Discussion

The current study has highlighted the dealing of a juvenile under the juvenile justice system Act 2018 and Juvenile Justice System Ordinance 2000. In juvenility, the children are more aggressive and quicker to act in any kind of negative circumstances. Therefore, most of their crimes are unintentional and without realization of the severity of the offense, as demonstrated by Bazai, Panezai and Qasim (2021), who deeply studied juvenile behavior at the time and age of offense. The study finds that most of the juveniles are involved in murder crimes and the reasons for robbery, theft, and rape. Similar results are also found by Gillani and Siddqi (2017) that disclosed the belong of juveniles to rural areas with most of the murder, theft and robbery-related crimes in Pakistan. It is also found that the delay in the justice system failed to resolve the cases on time based on the age factor of juveniles that ruined their lives, as also found by Shah et al. (2020). However, those who proved to commit a crime unintentionally or admitted released on bail with paying finely varied in amount according to the nature and intensity of the offense. Ijaz, Madni and Akhtar (2021) have also found similar findings, demonstrating that offenders with minor crimes are released on bail to prevent them from living in a criminal environment for their safe future. The study also revealed that some juveniles claimed to be minor at the time of the offense to delay the court hearing and decision making and prolong the case. The finding is parallel to the study of Sajid, Asad and Ashiq (2020), who finds the juveniles' clever nature in dealing with cases and releasing if their claim of juvenility at the time of the offense is accepted.

Conclusion and Recommendation

The study concludes that the implementation and consideration of the Juvenile Justice System Act 2018 and Juvenile Justice System Ordinance 2000 facilitate the juveniles in sentencing differently and leniently compared to the dealing with adult offenders. Under the consideration of the Act and ordinance, the juveniles are kept under observation for their rehabilitation and better socialization to prevent crimes. The study also concludes that weaknesses implicating the Juvenile Justice System Act 2018 and Juvenile Justice System Ordinance 2000 create trouble for juveniles in incarceration without proving guilt. Based on these study conclusions, the following are some recommendations to make this Juvenile Justice System Act 2018 and Juvenile Justice System Ordinance 2000 act effective:

- It is recommended to have public awareness about Juvenile Justice System Act 2018 and Juvenile Justice System Ordinance 2000 through schools, colleges, and universities to understand the terms and conditions of juvenile justice at a practical level.
- It is recommended that the Government of Pakistan should take adequate measures to ensure that the children are not tortured, abused and sentenced to death.
- The juvenile offenders should be given a psychiatric evaluation and appropriate treatment for healthy mental, cognitive and psychological development.
- If the juvenile offenders are imprisoned, they should not be placed with adults and the government and management need to manage enough spaces with separate facilities for them.
- The government of Pakistan must ensure that Juvenile Justice System Acts, ordinances and other Juvenile reform-related laws must be implemented at all levels, from identification of crime to dealing and imprisonment of offenders, by considering the age and developmental stage of children to lessen the chances of crime indulgence in future.
- These initiatives must be taken to avoid the sentencing of the juvenile death penalty or imprisoned with adults that make them the victim of abuse.

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