



Juvenile Justice in India: A Review

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Abstract:

Children are recognized worldwide as supremely assets of the state. the longer term of the state lies within the hands of the kids, WHO are recognized because the supremely assets of the state however as a result of the indifferences

of our society all told spheres, these future stake holders aren't cited properly that results in kid delinquency. Children or delinquency is Associate in nursing alarmingly increasing downside inflicting a supply of concern all told over the globe. Children need to be the topic of prime focus of development designing, research, and welfare in Asian country however sadly, it's not been therefore. Despite the Constitutional vision of a healthy and happy kid protected against abuse and exploitation, and a National Policy for youngsters, the bulk of kids in Asian country still live while not a cared, protected and substantive childhood.



Keywords: Development, Children, Constitutional, Associate, Assets Etc.

Introduction

In the last few decades, the crime rate by the children under the age of 16 years has increased. The reason of increasing crime rate is may be due to the upbringing environment of the child, economic conditions, lack of education and the parental care. These are the some of the basic reasons. And the most disappointing part is that, children (especially under the age group of 5 to 7 years) now a days are used as tool for committing the crime as at that this stage their mind is very innocent and can easily be manipulated.

The frightful incident of “Nirbhaya Delhi Gang Rape Case”, on December 16, 2012 shocked the whole nation and many debates were started among legal fraternity and socialists. The main reason and issue of the debate was the involvement of accused, which was just six months short to attain the age of 18 years. The involvement of the accused in such a heinous crime of rape



forced the Indian Legislation to introduce a new law and thus, Indian Parliament came up with a new law which is known as “ Juvenile Justice (Care and Protection), 2015.

Definition of Child and Juvenile under the Juvenile Justice Act, 2015 and other various laws

Generally, a “child ”mean a person who has not attain the age of 18 years and is not mature to understand that what is right and wrong . In modern era, the penal laws of most countries have adopted the principle of ‘doli incapex’, which means of knowing that act there are committing is a crime. The penal laws also states that Only child between the age of seven to twelve age can be convicted, provided that, the act they have committed is a heinous crime and they have knowledge and has attained the sufficient knowledge to understand the consequences of their act.

According to sub- section 12 of Section 2 of The Juvenile (Care and Protection) Act, 2015 a “child” means a person who has not completed eighteen years of age. The Act classifies the term “child” into two categories: –

- “child in conflict with law” , and
- “Child in need of care and protection”.

The child who has committed an offence and he or she is under the age of 18 years on the date of commission of the offence is basically called as “child in conflict with law”. The second sub – category is “child in need of care and protection” means a child ad defined under Section 14 of the Act.

- Children Act, 1960:- Section 2(e) of the Act states “child” means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years.
- United Nations Convention : – The UN Convention on the Rights of Child, 1989 defines that “child” means a human being below the age of eighteen years unless the law declaration applicable to child , majority is attained earlier.

Difference between Juvenile and Child



A person under the age of full legal obligation and responsibility is a minor or a person who is below the legal age of eighteen years is minor. A child being accused of a crime is not tried as an adult and is sent to Child Care Centre whereas juvenile is a person between the age group of sixteen and eighteen years. A young person who is been accused of crime is a juvenile offender and is tried as adult in court proceedings.

In general sense both the term has same meaning but however difference lies in context of implications in the eyes of law. Minor implies young and teen persons whereas juvenile either indicates immature person or young offenders.

Juvenile Justice Act, 2000

The Act was enacted in year 2000 with aim and intent to provide protection for children. The mentioned was amended twice – first in the year of 2006 and later in year of 2011. The amendment was made to address the gap and loopholes in the implementation.

Further, the increasing number of cases of juvenile crimes in the last recent years and frightful incident of “Delhi Gang Rape Case” has forced the law makers to come up with the law. The major drawback of the Act was that it contains ill equipped legal provisions and malfunctioning juvenile system was also the major reason in preventing the juvenile crimes in India. The act was replaced soon by The Juvenile Justice (Care and Protection) Act, 2015.

Present Juvenile Justice System in India

Like the other countries, India had also made legal provisions that especially and specifically deals with the rights and protection of juvenile offenders which seeks to tackle the problem of juvenile delinquency. The Juvenile Justice System in India is made on the basis of three main assumptions:-

1. young offenders should not be tried in courts , rather they should be corrected in all the best possible ways,
2. they should not be punished by the courts , but they should get a chance to reform



3. Trial for child in conflict with law should be based on non-penal treatment through the communities based upon the social control agencies for e.g. Observation Homes and Special Homes.

Juvenile Justice and Constitution of India

The Constitution of India is considering as the fundamental law of India. Constitution provides rights and duties of citizens. It also provides provision for the working of the government machineries. Constitution in Part III has provided Fundamental Rights for its citizens in the same manner in its Part IV it has provided Directive Principles of State Policies (DPSP) which acts as general guidelines in framing government policies. Constitution has provided some basic rights and provisions especially for the welfare of children. Like: –

1. Right to free and compulsory elementary education for all the children under the age of 6 to 14 years.(Article 21A)
2. Right to be protected from any hazardous employment under the age of fourteen age.(Article 24)
3. Right to be protected from being abused in any form by an adult.(Article 39(e)).
4. Right to be protected from human trafficking and forced bonded labour system.(Article (Article 39)
5. Right to be provided with good nutrition and proper standard of living.(Article 47)
6. Article 15(3) of the Constitution of India provides special powers to State to make any special laws for the upliftment and the betterment of children and women.

Therefore, the law makers while drafting the Juvenile Act, 2015 has considered all the necessary provisions laid down by the Constitution so that child's rights are protected in all the possible ways.

Conclusion

The increasing rates of juvenile crime in India in very concerning issue and need to be focused upon. Although government has laid various legislation and rules to stop the incidents of



juvenile crimes but the present laws on juveniles is not creating a deterrent effect on the juveniles and thus the results are not fruitful and legislative intent is not accomplishing .

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