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An Overview on the Development and Current Scenario of the Juvenile Justice System in India

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ABSTRACT

Juvenile delinquency is rising as one of the country's alarming issue which must be profoundly examined. Juvenile delinquency is the term used to describe the criminal acts of the individuals who have not completed 18 years of age. Juvenile Justice is a legal framework which seeks to provide justice for the juveniles and gives special approaches towards the prevention and rehabilitation of the delinquents. The present issue faced by our country is that the legislations so far enacted are not sufficient to create retribution to uphold the faith in our judiciary and deterrence among the Juveniles for the crime committed by them. There can be different reasons because of which the juveniles upset the settled cultural standards and disrupt the lawful norms. Age cannot be used as a loophole to escape after committing heinous crimes like murder and rape with a minimum punishment as it prompts the abuse of the Statutes in the hands of the wrongdoers. The historical backdrop of the juvenile justice system in India can be traced back to the early 1850's. The juvenile justice system was the immediate outcome of the changes and the advancements in the Western Ideas. On the whole this paper studies about the emergence and the present status of the legislative measures pertaining to the Juvenile Justice system in India.

Keywords: *Juveniles, Delinquency, System, Justice, Legislation.*

I. INTRODUCTION

Our children being a significant resource, each exertion ought to be made to give them equivalent chances for their advancement so they become powerful residents genuinely fit, intellectually alert and ethically sound endowed with the abilities and inspirations required by society. It must be surrendered that the over streaming culpability of juveniles cannot be credited to biophysical factors alone. There are other influences such as population explosion, social, economic and political changes, pattern of education etc., which account for the growing

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incidence of juvenile delinquency particularly in developing countries. This problem has assumed alarming dimensions in the recent years. The measures taken by passing the various legislative Acts from time to time is not that much viable in controlling juvenile delinquency.

(A) Juvenile Delinquency – Definition

Etymologically the term juvenile originated from the word ‘juvenis’ which means young person and the term delinquency has been derived from the Latin word ‘delinquer’ which means ‘to omit’. In a broad generic sense, juvenile delinquency refers to crimes done by young persons against the society. The Indian law provides a more precise and clear-cut definition of juvenile delinquency. It provides that any infringement of existing punitive law of the nation done by the child under 18 years, shall be an act in conflict with law for the jurisdiction of the juvenile justice board.

II. HISTORICAL CONSPECTUS OF JUVENILE JUSTICE SYSTEM IN INDIA

Understanding the current situation of the Juvenile Justice System in India requires to look into its history. The progression of the juvenile justice law in India can be followed back to the mid of the eighteenth century.

(A) Different Stages of Legislation

1. The Apprentices Act 1850

It was the primary enactment that established the framework of juvenile justice system in India. It was the main law which necessitated that the children between the ages of 10-18 sentenced in Courts to be given a vocational training as a major aspect of their rehabilitation process.

2. Whipping Act of 1864

During the British reign passed to punish the juvenile through whipping and setting him free that he should not repeat the same Act, it was to deter the child against committing crime.

3. Reformatory school act of 1897

Under this Act the reformatory schools may be established and the young offenders who have committed the crimes as per the direction of the courts are sent to the reformatory schools from 2 to 7 years instead of undergoing the sentence of imprisonment.

4. The children Act 1960

This was the landmark piece of legislation relating to the juvenile correction in the post-independence period. The core purpose of this Act was to provide care, protection, maintenance, education, training, welfare, rehabilitation, for the neglected or delinquent

children in the union territories. Under this Act ‘child’ means a boy who has not completed the age of sixteen years or a girl who has not completed the age of eighteen years.

5. Juvenile Justice Act 1986

This Act was enacted by the parliament when it decided to replace the children Acts in different states and union territories with a single uniform piece of legislation throughout the country. The object of this Act was to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters related to and disposition of delinquent juvenile. This nullified the detainment of juveniles in police lock-ups. Yet, there was no outright system to deal with the delinquent children.

6. The Juvenile Justice (Care and Protection of Children) Act 2000

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing rules) and The United Nations Guidelines for the prevention of the Juvenile Delinquency, 1990 (Riyadh guidelines), had announced the cardinal rules which ought to be applied to deal with juvenile delinquency and India, being a signatory to all the conventions on the Rights of the Child had a legal and moral obligation to enact laws affirming to the International standards. The juvenile justice Act 1986 was repealed by the juvenile justice (care and protection of children) Act 2000 by the legislature because of the existing gaps in the past legislations relating to the juvenile justice system in our country. This Act accommodates an extraordinary methodology towards the prevention and treatment of juvenile delinquency and provides a framework for the protection, treatment and rehabilitation of children in the domain of the juvenile justice system. Juvenile means any child who have not completed 18 years of age fall under the scope of this Act. It prescribes a maximum period of three years detention in a Special Homes, which many believe as being disproportionate to the impact of such a crime on the victim and society. The law provides for separate treatment for children in need of care and protection and juveniles in conflict with the law. This Act has been further revised in 2006 and 2010.

7. The Juvenile Justice (Care and Protection of Children) Act 2015

The most terrific incident of “Nirbhaya Gang Rape Case”, on December 16, 2012 which shook the entire country and numerous disputable contentions were started among legal fraternity and activists. The root cause behind this mass agitation was one of the offenders was under 18 years of age at the time of commission of the brutal offence. This pushed up the Indian Parliament to introduce a new law repealing all other laws in effect relating to the juveniles and thus, landed up with a new Legislation known as Juvenile Justice (Care and Protection of Children)

Act, 2015. The law seeks to ensure best interests of the juveniles and protect their right to dignity by providing care and support. This Act recognizes two categories of Juveniles, namely (i) Juveniles in conflict with Law, and (ii) Juveniles in need of care and protection. A child who is alleged to have committed an offence, and has not completed 18 years of age on the date of commission of an offence is defined as 'Juvenile in conflict with law'. This Act orders setting up of Juvenile Justice Boards and Child Welfare Committees in every district. This Act classifies the offences into serious and heinous types committed by the delinquents. Serious offences include all the crimes that are punishable between three to seven years of imprisonment and heinous offences include all offences that are punishable with seven years or more of imprisonment under the Indian Penal Code 1860 or under any other law in force.

III. DRAWBACKS UNDER THE PRESENT JUVENILE JUSTICE SYSTEM IN INDIA

The very first question which the Juvenile justice board is required to decide relates to the age of the juvenile brought before it for the proceedings. The age factor and the crimes committed by the juveniles plays a vital role in the juvenile justice system in the nation. According to the Indian Penal Code, 1860 under section 82 the age of criminal responsibility is fixed as a child below the age of 7 years is excluded from culpability and under section 83 nothing is an offence done by a child between 7 to 12 years of age who has not attained sufficient maturity to understand their nature of their actions and its consequences. The juvenile justice system doesn't reflect a perception of the difficulty or the rights of the victims of the juvenile crime. The crimes perpetrated by the juveniles are ceaselessly expanding regardless of harshening the penal outcomes on carrying out of the deplorable crimes like murder, rape, abduction etc., as referenced in the Juvenile Justice Act, 2015. Under the new legitimate arrangements, if a juvenile of 16 years or above carries out a heinous crime, a primary appraisal of his psychological and physical development will be made by the Juvenile Justice Board. Level of understanding will be coordinated to his ability to commit such an offence, his capacity to comprehend the results of his offence and the circumstances where he alleged to do the offence. The criminality of an individual juvenile cannot be assessed purely on the basis of age rather it should be dealt on the basis of the individual mental capacity of the offender. There has been an enormous increase in serious crimes involving youth of 16-18 years of age and the age factor had been utilized as a departure from the criminal indictment. The Juveniles commit such offences with full knowledge and maturity. Consequently, the present Juvenile Law in India, considers Age Determination as a fundamental significance to see if the guilty party falls under the domain of Juvenile Justice Act. The current law for the sake of Age assurance or Age Consent, isn't making a deterrent effect on the anti – social conduct of youth. The present Act

is totally concentrating on the reformation rather than penalization of the juveniles.

IV. CONCLUSION

The expanding paces of juvenile delinquency in India is a very concerning issue and should be focused upon. Despite the fact that legislature has laid down different enactments and rules to stop the occurrences of juvenile crimes however the present laws on juveniles isn't making an impediment impact on the adolescents and accordingly the outcomes are not productive and authoritative expectation isn't achieving. And further there is no assurance that juveniles will get transformed and won't show their anti – social conduct once more. Hence if the punishments are imposed by taking note of the nature and the manner in which crime has been committed would substantiate the object of the act by striking balance between the chances of rehabilitation and deterrent effect among the juveniles.

V. REFERENCES

- Vedkumari: *The Juvenile Justice (Care and Protection of Children) Act, 2015- Critical Analysis*, Lexis Nexis, 1st edition (2017).
- Vedkumari: *The Juvenile Justice System in India-From Welfare to Rights*, Oxford University Press, 2nd edition (2010).
- Kelkar RV: *Criminal Procedure*, Eastern Book Company, 6th edition (2018).
