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A Study of Juvenile Delinquency and Justice System in India

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Introduction

A juvenile or child means a person who has not completed 18 years of age. In present era, a movement for the special treatment of juvenile offenders has started through out the world including many developed countries like UK, USA. This movement has been started around the 18th century. Prior to this, juvenile offenders were treated as same as other criminal offenders. And for the same reason, General Assembly of the United Nations has adopted a convention on the Rights of the Child on 20th November 1989. This convention seeks to protect the best interest of juvenile offenders. It prescribes a set of standards to be adhered to by all the state parties in securing the best interest of the child. The international instruments and conventions that are signed by all the states of UN in order to protect the rights of children are-

- UN Standard Minimum Rules for the Administration of Juvenile Justice(Beijing Rules)
- UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)
- UN Rules for the Protection of Juvenile Deprived of their Liberty(Havana Conventions)
- Guidelines for the Action on Children in Criminal Juvenile System(Vienna Guidelines)

Like the other countries, India has 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 main objective of the juvenile justice system is to rehabilitate young offenders and give them a second chance. The juvenile justice system in India is made on the basis of three main assumptions-

- I) Young offenders should not be tried in courts rather they should be corrected in all the best possible ways.
- II) They should not be punished by the courts, but they should get a chance to reform
- III) Trial for child in conflict with law' should be based on penal treatment through the communities based upon the social control agencies e.g. Observation Homes and Special Homes.

Who is a Juvenile

The word 'Juvenile' originates from a Latin word 'Juvenis' that means young. Juvenile can be defined as a child who has not attained certain age at which he, like an adult person under the law of the land, can be held liable for his criminal acts. The United Nations Convention on the Rights of the Child defines a child as " every human being below the age of 18 years unless, under the law applicable to the child, the majority is attained earlier. In India before 1960, there wa no consistency regarding the age limit of juvenile delinquent. Every state had

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their own Children Act in which age limit of a child was different. Bombay Children Act defined "Child" - means a boy who has not completed the age of 16 years or girl who has not completed the age of 18 years. The UP Children Act defined 'child' - as a person under the age of 16 years. The Saurashtra and West Bengal defines "a child as a person who has not attained the age of 28 years". However, in 1959 India became the signatory of the UN declaration on rights of child and on 1960 India passed the Children Act which was applicable to whole India including Union Territory except Jammu and Kashmir. According to this Act, any person not completed the age of 14 years is a child. But India had to repeal the Children Act 1960 and bring a new Act Juvenile Justice Act 1986 due to the Standard Minimum Rules for the Administration of Juvenile Justice adopted by UN countries in November 1985. Juvenile Justice Act 1986 defines "a juvenile or child, who in case of a boy has not completed age of 16 years and in case of a girl 18 years of age". Government of India while discharging its international obligations revoked the Juvenile Justice Act 1986 by 2000 Act and the distinction regarding the age between male and female juveniles was done away. According to the new law, age of juvenile for both male and female involved in conflict with law has been fixed at 18 years. And under the Juvenile Justice (Care and protection) Act 2015 juvenile defined under Section 2 (35), " Juvenile means a child below the age of eighteen years".

Meaning of Juvenile Delinquency

Delinquency is deviation in the behaviour of a child or the abnormal behaviour of a child. When an individual deviates from the course of normal social life his behaviour is called 'Delinquent'. When a juvenile, below an age specified under a statute exhibits behaviour which may prove to be dangerous to society or for him, he may be called juvenile delinquent. Juvenile delinquents are those who commit any offence and are under 18 years of age including both boys and girls. Act of delinquent may include-

- I) Absconding from residence without the parents permission.
- II) Habitual misbehaviour beyond control.
- III) Use of bad languages
- IV) Wandering uselessly and gambling.
- V) Indulging in sexual offences
- VI) Shop- lifting/ pick pocketing
- VII) Theft/ Stealing etc

Constitutional Provisions:

After independence, the constitutional provisions have inspired the developments in the field of juvenile justice. Part III and Part IV which deal with Fundamental Rights and Directive Principles of State Policy respectively contain some special provisions with respect to Children that safeguard their rights.

Article 15(3) permits the State to make special provisions for children and women.

Article 23 prohibits the traffic in human beings and forced labour.

Article 24 forbids the employment of children below the age of 14 years in factories, mines and other hazardous occupations.

Article 39 (e) states that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age and strength.

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Article 39(f) directs the State to secure facilities for the healthy development of children and to protect childhood and youth against exploitation and moral and material abandonment.

Article 45 provides that the state shall endeavour to provide early childhood education and care for all children up to 6 years of age.

Article 21 provides that state shall provide free and compulsory education to children between 6-14 years of age

Article 47 states it is the duty of the State to raise level of nutrition and standard of living.

Legislation dealing with juvenile justice in India:

The first legislation for the juvenile justice system is The Apprentices Act 1850. It was the first law which required that children between the ages of 10-18 convicted in Courts, to be provided vocational training as part of their rehabilitation process. Another landmark legislation was the Reformatory School Act 1876 and 1897. Under the Act, the Court had the right to detain delinquents in a reformatory school for a period of two to seven years but after they had attained the age of eighteen years, they were not to be kept in these institutions. Moreover the Act of Criminal Procedure, 1898 provided probation for good conduct by offenders up to the age of twenty one. The Indian Children Act was made by the Indian Jail Committee (1919-1920). Under this Act, individual provincial govt got the right to enact separate legislation for juvenile in their respective jurisdictions. Provinces of Madras, Bengal and Bombay passed their own Children Act in 1920, 1922 and 1924 respectively. These laws entailed provisions for the creation of a specialised mechanism for the treatment of juveniles.

In post independence period, the Juvenile justice policy in India is structured around the Constitutional mandate prescribed in the language of Articles 15(3), 21, 24, 39(e) and (f), 45 and 47, as well as several international covenants on the rights of the Child and the UN Standard Minimum Rules for Administration of Juvenile Justice(Beijing Rules)

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

The Juvenile Justice Act 2000 is the primary legal framework for juvenile justice in India. The Act provides for a special approach towards the prevention and treatment of juvenile delinquency and provides a framework for the protection, treatment and rehabilitation of children in the purview of the juvenile justice system. This law brought in compliance of the 1989 UN Convention on the Rights of the Child, repealed the earlier Juvenile Justice Act of 1986 after India signed and ratified the UNCRC in 1992. This Act has been further amended in 2006 and 2010. The main provisions of the Act are-

I) The Act defines "Juvenile" or "Child" as a person who has not completed 18 years of age. The Act deals with two kinds of juveniles, "juvenile in need of care and protection" and "juvenile in conflict with law". Section 2(d)(8) of the Act defines a child in need of care and protection as a child who is without a home, a child who is found begging on the streets, a street child, a child who resides with such a person who has threatened to kill the child, a child who is mentally challenged, an abandoned child, a child who is vulnerable and can be dragged into drug abuse, sexual acts and a child who is victim of civil commotion and natural calamity. Juvenile in conflict with law' has been defined as a juvenile who is alleged to have committed an offence and has not completed eighteen year of age as on the date of commission of such offence.

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II) This Act provides for the establishment of the Juvenile Justice Board for giving justice to the juvenile in conflict with the law. Board is authorised to allow the juvenile to go home after advice and admonition, direct the juvenile to participate in group counseling , to perform community service , order the parent or the juvenile himself if he is over 14 years of age and earns money, to pay fine , direct the juvenile to be released on probation of good conduct and placed under care, make an order , directing juvenile to be sent to a special home and having regard to the nature of the offence and circumstances of the case , to reduce the period of stay in a special home.

III) The Act provides for the establishment of the Child Welfare Committee for disposing of the matters of the child in conflict with the law. This Act provides for the care, protection , treatment , development , and rehabilitation of the children as well as to provide for their basic needs and protection of human rights

IV) The Act bars the infliction of a death sentence , life imprisonment and prison in default of fine or furnishing security. The crucial aspect of the Act is the removal of disqualification attracting a conviction of the offence and publication of the name , address etc of the juvenile in any newspaper, magazine etc.

V) The Act also provides for juvenile or the child welfare officer in every police station with an aptitude and appropriate training to deal with the juvenile in coordination with police Unit to upgrade the treatment of police with juvenile or children.

Juvenile justice (Care and Protection of Children) Act, 2015

The Juvenile Justice Act 2015 replaced the Juvenile Justice Act of 2000 because there existed a need for a more robust and effective justice system that focused on deterrent as well as reformatory approaches. The frightful Nirbhaya Case of December 16, 2012 brought the whole nation under shock and there was a dire need to make changes in the then existing juvenile laws as one of the convicts of Nirbhaya's case was six months away from the completion of 18 years during the time of commission of the crime and he was considered to be the one accused with being most heinous with regard to the crime. The Govt thereafter introduced the Juvenile Justice Bill in August 2014 in Lok Sabha. The Bill was passed on May 2015 by the Lok Sabha and it came into force from 15 th January 2016. The provisions of the Act apply to all the matters concerning 'children in need of care and protection' and children in conflict with law'. The Act aims at adjudicating and disposing case dealing with juveniles keeping in mind the best interest of the children and their rehabilitation. The Act highlights the two main bodies that deal with these children , to be set up in each district , i.e. Juvenile Justice Boards(JJBs) and Child Welfare Committee(CWCs). There was a clear distinction made regarding the facets of offences, meaning thereby that categories were made terming the offences as heinous, serious and petty. The Act permits juveniles between the age of 16-18 years to be tried as adults if they are accused of committing an offence of heinous nature. That group of 16-18 years will be further examined by the juvenile justice boards and this is done in order to know if the crime was committed by that person as an adult or a child.

In spite of having such a law, the criminal tendency of children is increasing day by day. Juvenile delinquency is an enormous problem in the society. It is caused by a number of factors that include peer influence, influence by the family of the juvenile, broken homes, parent - child relationship, socio- economic condition, psychological factor etc. The effects of

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juvenile delinquency are far reaching. It affects the victims of the delinquent, the society as a whole and the delinquents themselves.


Conclusion

Juvenile delinquency is a big problem that not only affects the victims of the delinquent but it also affects the juvenile delinquents themselves, their family and even the society as a whole. It is known that delinquent child of today may turn out to be a chronic criminal tomorrow. Due to the contribution of family influence to delinquent behaviour in juveniles, it is vital to ensure that families influence children positively. This can be achieved by ensuring that there is strong emotional bonding in the family, and laying out effective strategies for communication. Parents should ensure that they closely monitor the kind of company that their children keep. They should ensure that their children engage in productive social activities. This will help reduce the chances of children becoming delinquents. The problems of beggary and poverty are to be removed or controlled and the general economic standards of the people must be increased to prevent children from becoming delinquents due to economic exigencies. The rising rates of juvenile delinquency and crime committed by juveniles is a pertinent issue today and due focus must be provided.

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Dilemma Girl Child

Introduction:

India is a diverse country with many different communities. In these communities, where women have low earnings, they need to support their families a better way. This is where spreading child labor starts from their childhood. They are socially, physically and mentally exploited which prevents them from growing. Children have many problems. Another v. Union of India. We should consider girl child as a priority. Confidence inside them should be built. Sexual abuse occupies a large part of the intense discussion in India. It has become the most not

Objective:

The objective of this article is to highlight the problems of these communities.

1. To highlight the problems of these communities.
2. To reflect the current situation.
3. To showcase the current situation.
4. To provide suggestions.

Methodology

This article is based on the research which has been done. The sources are based on reports, journals, articles