

**“Juvenile Justice and Juvenile Courts”**

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In the last few decades, the crime rate by children under the age of 16 years has increased. The reason for the increasing crime rate in these children may be due to the upbringing of the child, economic conditions, lack of good education, friend circles, or lack of parental care. The most disappointing part is that children (especially under the age group of 9 to 14 years) nowadays are engaged with the tools which are for committing the crime. In recent years we came across many crimes which are committed by children between the age group 8 to 18 years. Generally, a child means a person who has not attained the age of 18 years and not mature enough to understand the difference between right and wrong whereas a juvenile is a person between the age 16 to 18 years who is a young criminal. Some of the heinous crimes committed by a juvenile are Nirbhaya gang-rape, minor kills brother over PUBG, the murder of Tik Tok celebrity, teen kills brother for 40Rs and 8-year-old kills a toddler. These acts are committed mostly by teenagers, cumulative in today's civilization, which is a very concerning matter and cannot be snubbed.

In the modern era, the penal laws of most countries have adopted the principle of 'Doli Incapax', which by very definition means that the person incapable of understanding the commission of a crime. The development of the juvenile Justice Act in India can be dated back to the British Era. An example of this can be that of the introduction of the Whipping Act of 1864. This law was passed to punish the juveniles by the way of whipping them for the wrong committed by them and creating a deterrence in the minds of juveniles in order to bring an end to such acts. Further the Indian Penal Code, 1860 and the Criminal Procedure Code, 1861 took this forth by treating the child differently throughout their numerous provisions. The Juvenile Justice Act was enacted by India in the year 1986. The General Assembly of the United Nations adopted a Convention on the Rights of Child on 20th November 1989. The convention leads the Indian Legislature to repeal the Juvenile justice Act, 1986 and to make new law. Thus, Indian Legislation came up with a new act which was called as "The Juvenile Justice (Care and protection of Children) Act, 2000. According to the Indian Constitution, section 2(k) of the Juvenile Justice (Care and protection of Children) Act, 2000 defines "juvenile" or "child" as a person who has not completed 18 years of age. The Act was enacted with the aim and intent to provide protection for children. The mentioned amendment was amended twice - first in the year of 2006 and later in the year of 2011. Further, the frightful incident of "Nirbhaya Delhi Gang Rape Case" on December 16, 2012 the Juvenile Justice(Care and Protection) Act 2000 was replaced by the Juvenile Justice (Care and Protection) Act 2015 with some remarkable changes. The main reason for such changes was the involvement of the accused, who 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. One of the remarkable changes is that minors under the age of 16 to 18 years should be tried as an adult. The Juvenile Justice (Care and Protection of Children) Act, 2015 came into force on 15 January 2016. The new Act under the constitution states that if a minor aged between 16 and 18

commits a crime but is caught after he has turned 21, he should be tried under IPC and not under Juvenile Justice Act. The new law permits juveniles between the age 16-18 years to be tried as adults if they are accused of committing an offence of heinous nature. It also says that groups of 16-18 years will be further examined by the juvenile justice board and this is done in order to know if the crime was committed by that person as an adult or a child. The juvenile justice board is required to consist of a team of psychologists and social experts and this is made in order to ensure that the rights of a juvenile are protected if the crime was committed by him or her as a child. Every district in the country must have a Juvenile Justice and additionally a child welfare committees, which come into play as a consequence of the passage of the bill. The penal laws also state that only a child between the age of 7 to 12 can be convicted, provided that the act they have committed is a heinous crime and they have knowledge and have attained sufficient knowledge to understand the consequences of their act. The act also focuses on rehabilitation of juvenile offenders through various child care houses and institutions. Therefore, the law makers while drafting the Juvenile Act, 2015 have considered all the necessary provisions laid down by the Constitution so that child's rights are protected in all possible ways. When compared with other countries like the US and UK the Juvenile Justice system is considered to be more flexible and easily enactable. Under the Juvenile justice system in the US, a juvenile will be tried as an adult only in cases where the age of the juvenile is close to adulthood or when the juvenile is found out to be a habitual offender. On the other hand in the UK the primary aim was to provide the required care and protection to the children. In addition to this, they also focus their attention on removing all the unnecessary aspects from the environment around a child, as this can provide a great opportunity for the reformation of the offenders. There were two important acts which were brought into being by the English courts such as The Children And Young Offenders Act, 1993 as well as The Criminal Justice Act, 1948.

Our Constitution has provided some basic rights and provision especially for the welfare of children:-

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

At present, there is an increasing rate of juvenile crimes and this increasing rate is creating a debatable issue of age determination. Thus, the present Juvenile Law in India, considers Age Determination as a paramount importance to find out whether the offender falls under the purview of Juvenile Justice Act. There is no need to give such a minor kind of punishment for a heinous and harsh offence just because of Age determination or Age factor. For example Rape is Rape, one can't walk away taking a plea of age factor or mental incapacity or mental unfitness. Juvenile offenders believe that committing heinous crime is no issue as they will get away with very little or no

punishment in the name of reformation. The current problem India is facing is that the law is insufficient for giving punishment to the juvenile, according to the crime committed. The present juvenile system in India is created to believe that juvenile offenders can be reformed and rehabilitated, sending them to bars or prisons will reaffirm their status and identity as “criminals”.

The aims to consolidate the laws relating to children alleged and found to be in conflict with law and children in need for care and protection by catering and considering their basic needs through proper care & protection, development, treatment, social- integration, by adopting a child friendly approach in the adjudication and disposal of matters in the best interest of children.

The first legislation on juvenile justice in India came in 1850 with the Apprentice Act, 1850 which required that children between the ages of 10-18 years convicted in courts to be provided vocational training as part of their rehabilitation process. This Act was transplanted by the Reformatory Schools Act, 1897 subsequently provided that children up to age of 15 may be sent to reformatory cells, and later the Juvenile Justice Act 1986 provided a uniform mechanism of Juvenile Justice. Earlier, these special courts dealing with child delinquency were termed as Juvenile Courts and with several amendments and reforms these courts came to be transformed into Juvenile Justice Boards (JJB) to make them more child friendly and reformatory. The purpose of a separate court is that its purpose is social-legal rehabilitation and reformation not punishment. Under the Juvenile Justice Act (JJA), 1986 there were provisions to handle the cases relating to delinquent children by the Juvenile courts and special homes. Later when an amended Juvenile law was passed under the Juvenile Justice Act, 2000, the similar powers relating to inquiry and trial of juvenile or children in conflict with law were handed to Juvenile Justice Boards, which were similar to Juvenile Courts but had more comprehensive and reformatory powers than the Juvenile Courts. So, the terminology of Juvenile Courts was used in the earlier period until the Juvenile Justice Act, 2000 came into effect, since then they were replaced by Juvenile Justice Boards. Aside from different laws administering kids, there exist numerous different issues at the grassroots level. Government-supported kids' homes are regularly unfit to suit ignored kids. Kids are infrequently even kept in prison. In this way, there is an issue in the execution of laws relating to youngsters and the upkeeps of kids' homes.

In India the Juvenile Justice Law deals with the 2 categories of children - 'Children in conflict with law' and 'Children in need of care and protection'. The trial of those children in conflict with law aged under 18 years fall into a special judicial area. They are handled by the Juvenile Justice Boards, or the Juvenile Courts, which are supposed to provide care and guidance to the juvenile offenders during their hearing and detention. On the other hand the child of those children in need for care and protection are handled by the Child Welfare Committee. Whenever an inquiry satisfies the Juvenile Justice Board that the offence committed by the child was a petty offence then they are required to allow the child to return home after admonishing him or after properly advising him or her; order the child to perform community service, as this helps in instilling good values among the children and such a measure is to be undertaken when the offence is of quite a graver nature; get the child to participate in group counselling and similar types of activities as this greatly helps in the rehabilitation of the child; the child is required to be released on probation if he was seen to exhibit good conduct; when the offence is not of a petty nature and quite grave, then the child should be

sent to a special home for a period not exceeding 3 year; the child or even his parents can be advised to pay fine, and this further acts as a deterrence. The aim of Juvenile Justice Boards is to hold a child culpable for their criminal activity, not through punishment, but counselling the child to understand their actions and persuade them away from criminal activities in the future.

The increasing rates of juvenile crime in India is a very concerning issue and need to be focused upon. Because the juveniles committing the serious crimes like rape and murder also go unpunished with the offender wearing the grab of juvenility. Although the government has laid various legislation and rules to stop the incidents of juvenile crimes but the present laws on juvenile is not creating deterrent effect on the juveniles and thus the results are not fruitful and legislature intent is not accomplishing.