

“Juvenile Justice and Juvenile Courts”

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“Humanity has the stars in its future, and that future is too important to be lost under the burden of juvenile folly and ignorant superstition”

– Isaac Asimov

The wealth of a nation is not so much in its economical and natural resources but it lies more in the kind and quality of children. The children of today is the future for tomorrow, it is they who will be the creators and shapers of a nation. They are the future of world and mankind. While they can build a nation by their ability and smartness, at the same time they can also ruin the nation if they indulge in bad activities like taking drugs and alcohol.

In the last few decades, the crime committed by the children mostly under the age group of 15-18 years has increased. This increasing crime rate can be due to the lack of education and not understanding the mindset of the child. There seems to be a lack of parental care also. The parents have to understand their children and in the age group of 15-18 years particularly, children need more care and love because in the teenage they are more susceptible to commit crimes even out of hatred or anger. The most displeasing part is that, children especially under the age group of 5-7 years are used as a tool nowadays for committing the crime as in that state of childishness everyone can easily manipulate their innocent minds. In the modern era, the penal laws of most countries have adopted the principle of “doli incapex” which means incapable of knowing that act they are committing is a crime. The penal laws also states that the child between the age group of 7-12 years of 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 Justice (Care and Protection of Children) 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 whether a girl or a boy who has committed an offence under the age of 18 years on the date of commission of an offence is called as “child in conflict with law”. The second sub category is “child in need of care and protection” means a child as defined under section-14 of the Act. 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 below the age of eighteen years who has committed a crime has sent to the childcare centre so that he will not repeat such type of crime in adulthood. A juvenile is a person between the age group of seven years to eighteen years; and when accused of a crime is termed as a juvenile offender and has given punishment in the court proceedings. In general sense both the terms have the same meaning but are treated differently in

the eyes of law. A minor implies young and teen person whereas juvenile implies either immature person or young offenders. Many countries like the U.K, the USA, have made legal provisions that specifically deal with juvenile offenders. Like many countries, India had also made legal provisions that especially and specifically deals with rights and protection of juvenile offenders that seeks to go through the problem of juvenile delinquency. The juvenile justice system in India is built on 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 and they should get a chance to change themselves.
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, NGO's childcare centre, and special homes.

The Juvenile Justice Act of 2015 aims to consolidate the laws relating to children alleged and found to be in conflict with law and children in need of care and protection by considering their basic needs with proper care and protection, by talking to them about their problem very calmly, and make them social. The Act also focuses on rehabilitation of juvenile offenders through various child care houses and institutions. Researches and studies show that there are various causes of juvenile delinquency in India. Every person has different behavioral patterns so is the case with children also. The behavior patterns develop in early childhood and at early stage. But when child grows up and face the real world then their behavior patterns change from time to time and many circumstances or situation may create the delinquent behavior in them. The delinquency rate is much higher among boys than among girls. The Juvenile delinquency is more in urban than in rural communities. The metropolitan cities produce more juvenile delinquents than small cities and towns. There are many causes of juvenile delinquencies.

1. The main reason is poor economic background. It is the important characteristics of juvenile delinquency in India. About half of the delinquents came from homes with an income of less than Rs.500 per month, less than one-third from homes with income between Rs.501 and 1000 per month and about one tenth from homes with income between Rs.1001 and Rs.2000 per month and a very small number from income with income between Rs.2001 and Rs.3000 per month. This shows that juvenile delinquency is more a lower-class phenomenon. Almost all studies conducted in our country on juvenile delinquency and its relation to the socio-economic order shows that those at the bottom strata have been found to have the highest rates.
2. Those children who have experienced sexual assault or any other kind of unwanted physical assault in their earlier childhood may develop any kind of repulsiveness in their behavior and mind. This leads them to interact with sexual intercourse by kidnapping and raping a girl.

3. The divorce of parents, lack of parental care and support, lack of love and affections are the major factor of juvenile delinquency as the child first learn from their parents and they want more attention and happy surrounding in the adolescence age.
4. The rapidly changing society patterns and modern living style, makes it very difficult for children and adolescents to adjust themselves in new ways of lifestyle. They are confronted with problems of culture conflicts and they do show offs to be cool and smart in front of their friends. They are unable to differentiate between right and wrong.

The Constitution of India is considered as the fundamental law of India. The Constitution has provided especially for the welfare of children like Right to free and compulsory elementary education for all children under the age of 6-14 years (Article 21A), Right to be protected from any hazardous employment under the age of fourteen (Article 24), Right to be protected from being abused in any form by an adult (Article 39(e), Right to be protected from human trafficking and forced bonder labor system (Article 23), Right to be protected with good nutrition and proper standard of living (Article 47). Article 15(3) of the Constitution of India provides special powers to the State to make any special law for the upliftment and the betterment of children and women. Therefore the law makers while drafting the Juvenile Act, 2015 considered all necessary provisions laid down by the Constitution so that child's rights are protected and cannot be violated. This also focused on the reformation and rehabilitation of juveniles in all the possible situations. Juvenile Justice is a legal framework that defines justice for juvenile under Indian legal system. The system is giving a special treatment and protection to juvenile delinquency. At present, there is an increase in the rate of crime committed by the children mostly the age group of 15 to 18 years. The increasing crime rate is raising a question that whether the juvenile can be tried as an adult or not? The Act itself answer to the question that no juvenile offender who comes under the definition of "child with conflict with law" as defined under sub-section 13 of section 2 of the Act shall not be tried as adult and shall sent to child care centre or any rehabilitation centre till the offender attains the age of 21 years and then he or she may be shifted to jail or prison. For the crimes like rape or murder the child shall clearly be sent to jail because it is a huge offence and if they have committed that offence then they have the knowledge of everything and they have clearly attain the adulthood and they have a place in jail.

According to the Act, the maximum tenure of punishment that can be given to juvenile offenders is three years and the punishment is valid in heinous crime also. In case of an adult offender, the maximum punishment is 7 years of life imprisonment or death penalty. In the present scenario there is no need to give such minor kind of punishment for a heinous and harsh offence just because of age determination factor. They do not need any child care centre or rehabilitation centre as their mindset cannot be changed. If a person is committing rape then they do not need any kind of attention and care. Rape is rape; one cannot walk way taking a plea of age factor or mental incapacity or mental unfitness. Juvenile offenders are under the impression that

committing heinous crime is no issue as they will get away very little or no punishment in the name of reformation. Thus, the existing law in the name of age determination is not creating a deterrent effect on the anti-social behavior of youth. The present juvenile system in India is created on believe that juvenile offenders can be reformed and rehabilitated, sending them to bars or prison will reaffirm their status and identity as “criminals”. Reformation is good but not always. The increasing rate of juvenile crime in India is becoming a very concerning issue and it need to be focused on. The juvenile crime is increasing day by day, it can be controlled by giving proper education and making the child social and giving them a chance to improve themselves rather punishing them or sending to jail.