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JUVENILE JUSTICE AND REHABILITATION **SYSTEM IN INDIA**

AUTHORED BY - KHUSHI OLA

ABSTRACT

Children are valuable resources of our nation, So, there is a dire need to provide a safe living environment to every individual, further in recent times there is a substantial increase in incidences of crimes committed by children. Internationally it is recognized that Juvenile Justice system is the most enlightened and progressive system to protect a deviant and unprotected child. On the same grounds to address this problem Juvenile Justice Care Act of 2015 was introduced and the approach adopted was a punitive one for curbing the Juvenile crimes effectively. The purpose of this act is to rehabilitate the offenders and give them a fresh start in there life. A special court for juvenile is established to adjudicate these matters. Juvenile in India are those whose age is less than 18 years of age. The juvenile Justice system places a more emphasis on rehabilitation rather than punishment, at least on papers. But another problem is that though the act looks very impressive on paper but there is no proper implementation and the crimes committed by the juveniles are still on rise. There are still many flaws and lack of implementation in this act. So, the primary motive of this act is to critically evaluate the act and to elaborate on the suggestions to make this system more effective and beneficial for the society.

KEYWORDS - Juvenile justice care, rehabilitation, punitive, juvenile courts

I. INTRODUCTION

Juveniles means Juvenile' means young person or any young person's retaining the nature and characteristics of a child. Juveniles in India are considered to be those whose age is less than 18 years and this was defined under the clause (h) of Section 2 of the Juvenile Justice Act, 1986.

Juveniles form a very important part of the society. They are basically the future of the country, and further they form important human resource and are expected to bring about positive change in the society. But in the recent times it is very disappointing to see that how the juvenile crimes are increasing day by day. The economic, living, educational as well as parental care are some of the factors which greatly influences an individual's behavior.

To address this problem the government introduced separate legislation for the redressal of juvenile. Though this system is a part of criminal law, it was made to reduce the criminal liability of the minors on the ground that they didn't have any malicious intent and this kind of behavior. India's Juvenile justice system is based on a Latin proverb "Nil Novi Spectrum" which means that nothing is new on this earth.

II. WHY A SEPARATE SYSTEM FOR JUVENILES?

It is further important to note that the juvenile justice system stems back from the British era that is in 1920s. Before that Children were treated in a similar manner as any other adult was treated. But all thanks to western philosophy there was a growing requirement and need for separate legal system for Children as they are innocent owing to Doli Incapax which basically means 'incapable of committing deceit' and adventurous nature of the youth.

A separate legislation is created for the minors to ensure that their human rights are protected and the primary focus of these legislations is to rehabilitate those individuals and it is quite different from the adult criminal justice system. The earlier society Even within the constitution of India it is mentioned to provide justice to the individuals, Under article 15 it is mentioned special attention should be given to the individuals so, a separate body of law should be formed. This is further also iterated in article 14,15,16,21,23 & 24. The constitution also mentions that the children should not be exploited and the sole purpose of the laws should be child welfare. Also in the landmark judgment of **Munna v. State of U.P.**, the Supreme Court held that the fundamental rights of the young offenders who have committed a crime should not be restricted and ignored even if they are prisoned. Moreover, the child should not be ill-treated even if he is found to be guilty of a crime. His/her rights shall be protected, and proper care should be given. In 2015, Juvenile Justice Care Act took over the Juvenile Justice (Care and Protection of Children) Act, 2000, this new system was launched as the earlier juvenile Care Legislations were proving to become inefficient in solving the problem at hand as a result of which the crimes committed by children between the age group of 14-16 was increasing rampantly.

It is also important to note that even international law recognizes the need for a separate penal code for juveniles, Article 6 and 37(a) of convention of the rights of the child talks about the same issue. Further there are other international instruments also which talks about the same issue like The UN Standard Minimum Rules for Administration of Juvenile Justice (Beijing Rules)1985,

The UN Guidelines for action on Children in the Criminal Justice System (The Vienna guidelines), 1997 and many other legislations which talks about similar rules and guidelines which talks about the similar rules and guidelines.

III. CHANGES MADE AFTER NIRBHAYA CASE

One case in India which brought several changes in the juvenile and rape laws as it involved violent and inhuman acts is the Nirbhaya Gang rape and Murder case. It was horrifying to hear of the gang rape case in Delhi that claimed the life of a 23-year-old girl. There was so much anger, dissatisfaction & criticism worldwide for such a horrible act. All the accused of participating in this crime were given the death penalty, except for a juvenile who was 17 years old at the time of the crime & one other accused who had committed suicide at the Tihar trial. The boy, now 29 years old, was freed on 20th December 2015 under the Juvenile Justice Act 2000, three years after his conviction & sentence. Because he was a minor, he was completely exempt from the death sentence & got protection under the Juvenile Justice Act 2000. Due to the extreme brutality & gruesomeness of the crimes involved, this case is considered one of India's landmark rulings. It led to numerous changes in the country's juvenile laws.

There were several changes made in the previous act, the newly enacted law divided crimes into three types i.e. petty, severe and heinous. And one of the most important change that was introduced was that the age of juvenile to be considered in cases of serious offences was 16 years instead of 18 years. After this change all 4 accused was given the death sentence and was treated in the same manner as other accused were treated. It is also important to note that who had to decide that whether the child in conflict is to be subjected to the laws for adult or juvenile. The same is to be decided by the Juvenile Justice Board.

IV. JUVENILE JUSTICE CARE ACT,2015 AND REHABILITATION OF JUVENILE IN INDIA: A CRITICAL ANALYSIS

Juvenile Justice Care Act,2015 is a comprehensive law which talks about rehabilitation, care and protection of children. The new act was introduced replacing the older one because it was realized that it was not adequate and there was a need for a new one. By this means they reduced the age from 18yrs to 16 yrs. One of the positive aspect of this act is that it puts a lot of emphasis on rehabilitation and reintegration of the children, these measures also include vocational training, counseling and education. But still there were many disadvantages also which were highlighted

in this act and some of which are mentioned below.

One of the drawback was that this act was too lenient on the children who conducted even some kind of heinous act. Another criticism of the Act is that it is not being implemented effectively. There have been reports of children being detained in overcrowded and unhygienic conditions in juvenile homes. There have also been reports of children being subjected to abuse and violence in these homes. The Act provides for the establishment of Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) to oversee the care and protection of children. However, many of these bodies are not functioning effectively, and there is a lack of trained personnel to deal with the complex issues that arise in such cases.

Despite all these drawbacks highlighted there are certain positive aspects also of the act like It offers aftercare services to be given to children following their release from the rehabilitation home and acknowledges the significance of social reintegration for youngsters who are in legal trouble. Additionally, it allows for children's participation in decision-making processes and acknowledges their rights. One of the most important positive aspect of this act was that it lead to the formation of Juvenile Justice board(JJB), The composition of JJB was Metropolitan Magistrate or Judicial Magistrate of First Class with at least 3 years of experience further there must be two social workers out of which one must be a female. The main function and responsibility of JJB was that it will ensure active participation of the parent or guardian throughout the process, It will also safeguard the interest of the children during apprehension, it will also ensure that the children are provided with aftercare as well as with rehabilitation, they would also inspect into adult jails to ensure that there is no children there.

Under this act it is also mentioned that no child or youth can receive death penalty or life imprisonment. Further it is also mentioned in this act that once those children who were convicted, and while serving the punishment they turn 21, then that decision would be reconsidered and it would be decided that whether they can join back the society or not.

Further this act talks comprehensively about rehabilitation and social re-integration of children further it also lays down certain rules and guidelines for the adoption of children and lays down the conditions and requirements for the prospective parents.

V. WHY REHABILITATION FOR JUVENILES ARE NECESSARY?

The primary purpose of punishment is to ensure that a certain act is not repeated again and further the guilty regrets his decisions. Further after the punishment is served, it is important to rehabilitate the accused and make him ready to re-enter the society. Ex-convicts are often in the society even after serving their term are seen with suspicious eyes. Further in the Juvenile Justice system there is a necessity to ensure that the children are provided a proper rehabilitation as they have whole future in front of them and youth shape the country. Thus under the juvenile justice act of 2015, the main rehabilitative measures which were suggested were vocational training, educational, cultural, emotional as well as basic life supporting skills. The rehabilitative process includes psychological assessment of the crime committed by the juvenile and the environment, causing it to happen, therapeutic guidance, skill development, involving them in yoga and other mind developing activities.

But the act looks good on papers and it is very difficult to implement these rules as there are some sought of financial constraints and the government does not have enough funds to support all the rehabilitative policies. Thus, many NGOs have taken various steps to help the government. Children are also told to do community services as a form of punishment. Counsellors were arranged.

VI. JUVENILES JUSTICE SYSTEM IN OTHER COUNTRIES

Almost all the countries around the globe have now implemented the juvenile justice system to protect the rights of the youth and provide a preferable punishment to the juveniles. Though these systems are quite different from each other and the ages of juveniles vary from system to system and there is no uniform system for the same.

Countries like U.K., Belgium, USA, China all consider juveniles to be under 18 years of age and focus on rehabilitation of such youth population. Whereas in countries like in Japan and Taiwan this age is 20 years.

Some important international case laws which highlighted the importance of juvenile justice system are:

In *Roper v. Simmons* 543 U.S. 551, Christopher Simmons, age 17, arranged to burglarize a lady's

home and murder her. He, along with two of his friends, planned for the crime. However, before the evening of the murder, one of his companions quit the arrangement. Simmons and his friend broke into the victim's home, bound her hands and tossed her over the bridge. In this case, the jury found him guilty and recommended for the death penalty. However, in 2015, the Supreme Court of the United States ruled it unconstitutional for a person under the age of 18 years to be subject to capital punishment sentence, and thus overruled the 1989 *Stanford v. Kentucky* decision, which permitted capital punishment for offenders who were above the age of 16 years. Further each and every country tries to form such a standard of Juvenile Justice system which confines to International norms, further the rights of juveniles are also a human right as well as natural right which must be awarded to every youth.

VII. CONCLUSION

Juvenile delinquency is a very serious issue faced by the society, In this era of industrialization, urbanization and modernization, the crime rates are on a constant rise. It is caused by a variety of factors, including broken homes, malnourishment of the parents, financial instability, drug abuse and domestic violence, as well as other social influences like school, peer pressure or neighborhood.

The rising rate of juvenile crime is a major concern in India and needs to be addressed. The government has put in place various laws and regulations to prevent the incidents of juvenile crimes, but the current laws on juveniles are not having a dissuasive effect on the juveniles and are not achieving the desired results. As discussed in the paper, everyone has their role to play in curbing juvenile delinquency, from the society to the parents, rehabilitation homes, etc. If all factors work together, this real life issue will be solved with ease in a very short period of time.

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