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“ROLE OF THE JUVENILE JUSTICE SYSTEM IN INDIA”

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ABSTRACT:

Juvenile delinquency is a serious offense and it is dangerous for any society in any country. Children are the real assets of any country or nation. In recent days there has been a tremendous increase in Juvenile Crime which has affected the Justice system and society.

In this context, there is a huge gap in understanding Juvenile Delinquency and Juvenile Justice. In India, we see an increasing rate of violent crimes committed by juveniles. It is a very serious issue for any nation and we must take steps for the solution to stop the crimes done by juveniles. In India, our legal system and judiciary defiantly respond to these trends and have brought new amendments to laws for Juvenile Justice in India.

Our legal system and judiciary have introduced new amendments and bills in laws to reduce juvenile delinquency in society.

The paper aims to introduce the juvenile justice system in India and also discuss the Juvenile Justice Care and Protection Act 2000 with the challenges faced by the present Judiciary and Juveniles.

INTRODUCTION:

The Juvenile Justice System is based on the principle of social welfare and the rights of the child. The focus of the JJS is reformation and rehabilitation and creating opportunities for the development of personality.

Juvenile Justice is a framework in the regard related to the Legal aspect which describes the definition of Juvenile under the Indian Legal System context. The system provides special treatment/arrangements to protect against Juvenile crimes committed by children who are under the age of 16 years or less.

The idea of incorporating the Juvenile Justice of Law Policies and procedures to regulate the process and dealing to reduce to commit of nonadult crimes done by those under the age of 16 years or below and also provide the right legal remedy to child or juvenile.

The Code of Criminal Procedure, 1973 clearly says the jurisdiction of Juveniles Court under the age of 16 years old children who have committed any crime that is not punishable by death or life imprisonment.

The Juvenile Justice (Care and Protection of Children) Act, 2000 there is a conflict with the law the age of 16-18 years, who committed crimes/offenses will be tried as adults. The Juvenile Justice (Care and Protection of Children) Act, 2015 is replaced with the Juvenile Justice (Care and Protection of Children) Act, 2015.

LITERATURE REVIEW:

Who is India's juvenile?

A Juvenile is a child or person who has not completed the age of 16 years in the case of boys and 18 years for girls as per the Act, 1960. Any crime committed by a child under the age group of 16-18 years whether he/she committed by them cannot be punishable by sentence or imprisonment.

The Parliament of India has passed a bill that allows juveniles under the age group of 16-18 years to be tried as adults for heinous crimes like murder or rape and can be sentenced to a maximum of three years in the reform cell/shelters

What happens to juvenile offenders in India? The Indian parliament has passed a bill that allows juveniles between 16 and 18 years of age to be tried as adults for serious crimes like rape or murder. At present, those under 18 can be sentenced to a maximum of three years in a reform facility.

Juvenile Justice is a domain of Criminal law that dilutes criminal liability on the premise that a juvenile is incapable of possessing a malevolent will. The notion of juvenile justice was derived from the notion that the issues of juvenile delinquency are not amenable to settlement within the parameters of the conventional methods of criminal law.

REASONS FOR JUVENILE

Crimes Interdisciplinary studies on juvenile delinquency reveal that across the world, many behavioral changes occur in juveniles/ adolescents, which are related to the sudden changes in their body due to hormonal surge, associated with puberty. The changes are most apparent in physical parameters, such as changes in height and weight of the adolescents, and are soon followed by other sexual and physical changes of maturity. These physical changes are accompanied by mental changes.

1. Social Factors

In some cases, the juveniles create a reprobate sub-culture because of social hardship and status disappointment that they experience (Albert Cohen, 1955). They frequently embrace degenerate tendencies because of companion weight. As indicated by Walter B. Mill operator (1958), some youth (as a rule having a place with the lower class) turn the standard culture upside down, therefore whatever is valued and is viewed as positive for the most part by the society surrendered by these youth, and is supplanted by the opposite value system. In this way, if certain ethics are maintained by society, juvenile delinquents surrender these values, attempt to exceed expectations in the areas of strength, over-hurting others, and enjoy things that give them excitement (characterized as central worries by Miller). The reprobate sub-culture hypothesis has been connected to the most recent investigations in the United States, where a new area of the frame of mind of the juvenile towards the Police in China has been engaged.

2. Psychological Factors

There are mental clarifications to delinquency additionally, which can be surely known through Freudian ideas of id, inner self, and super-personality.

There can be a solid connection between the intellectual state of adolescence and depraved tendencies. Investigation of female prisoners in Bangladesh demonstrated an exceptionally high incidence of mental issues among the guilty parties of the Female Juvenile Center. These wrongdoers likewise indicated a high incidence of substance abuse.

3. Biological Factor

The biological explanations propose that people are affected by their biological/hereditary make-up. They are not exactly the prisoners of biological structuring; however, it renders these people slanted towards reprobate propensities. The hormonal changes in the body of the juveniles oversee their impulsive and rebellious behavior. Ecological/natural and financial parameters additionally play significant trigger focuses in the lives of the juveniles. However, for the most part, it is the combination of these factors that together makes circumstances of juvenile delinquency.

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

The Act seeks to amend the law relating to juveniles in conflict with the laws and children for need of care and protection, providing proper care, protection, and treatment to approach and adjudication for the best interest of children.

Section 9-12 says that the Juvenile Justice Act facilitates to the Government to establish homes, special homes, and observation homes for juveniles.

JJ Act, 2000 directly deals with special trial processes for the betterment of children.

Section 3 says, that if an inquiry has been conducted against a Juvenile shall be presumed to an innocent up to the age of eighteen years.

Section 4 says that the State Government must consist of at least one or more juveniles' welfare boards which shall have two social workers of whom at least one shall be a woman have the powers conferred by CrPC, 1973.

Section 5 of this Act says that the board shall meet and observe rules of procedures regarding the transaction of business at its meeting as may be prescribed.

The Juvenile Justice Act Amendment is making it harder to report abuse at childcare institutions by making abuse and cruelty by staffers or persons in charge at Child Care Institutions (CCI) non-cognizable.

The Juvenile Justice (Care and Protection of Children) Amendment Act, 2021 was passed to amend various provisions of the Juvenile Justice Act, 2015.

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Provisions of Juvenile Justice (Care and Protection) Amendment Act 2021?

Non-Cognizable Offence:

Crimes against children which are mentioned in the chapter “Other Offences Against Children” of the JJ Act, 2015 that allow imprisonment between three and seven years will be deemed “non-cognizable”.

Adoption:

The amendment provides strength to the provision of protection and adoption of children. Many adoption cases are pending before the court and to make proceedings of the court faster now the power is transferred to the district magistrate.

The amendment provides that the district magistrate has the authority to issue such adoption orders.

What is the Concern Associated with the Juvenile Justice Amendment Act, of 2021?

Specifically, the amendment under challenge is the one to Section 86 of the JJ Act, according to which crimes under the special law, with punishment between three to seven years, have been reclassified as non-cognizable.

While the victims themselves are unable to directly report them due to the imbalance in power, most such crimes are reported to the police by either parents or child rights bodies and Child Welfare Committees (CWC).

Parents of these Children: They are mostly daily wage laborers, and are either unaware of how to, or not inclined to report the crimes to the police.

They do not want to engage with the legal process because that would force them to take time off from work, resulting in loss of wages.

Child Welfare Committees (CWC): CWCs’ first instinct in most cases is to “talk and arrive at a settlement” without having to escalate the matter to the police.

Making these crimes non-cognizable along with several other serious crimes under the special law would make reporting an offence to the police even more difficult.

What is a Cognizable and Non-Cognizable offence in India?

The Criminal Procedure Code lays the rules for the conduct of proceedings against any person who has committed an offence under any Criminal law.

Cognizable Offences:

A cognizable offence is an offence in which the police officer as per the first schedule or under any other law for the time being in force, can arrest the convict without a warrant and can start an investigation without the permission of the court.

Cognizable offenses are generally heinous or serious such as murder, rape, kidnapping, theft, dowry death, etc.

The first information report (FIR) is registered only in cognizable crimes.

Non-Cognizable Offences:

A non-cognizable offense is the offense listed under the first schedule of the Indian Penal Code and is bailable.

In case of a non-cognizable offence, the police cannot arrest the accused without a warrant as well as cannot start an investigation.

A criminal complaint is lodged with the magistrate who is supposed to order the concerned police station to initiate an investigation.

The crimes of forgery, cheating, defamation, public nuisance, etc., fall in the category of non-cognizable crimes.

Cases consisting of both Cognizable and Non-Cognizable Offences:

According to Section 155(4) of the Criminal Procedure Code, when two or more offenses are there in a case, of which at least one is cognizable, and the other of non-cognizable nature.

Then the entire case has to be dealt with as a cognizable case, and the investigating officer will have all the powers and authority as he has in investigating a cognizable case.

OBJECTIVES:

To study the incidence of delinquency committed by adolescents in different states of India.

Examine the motives, circumstances educational status, and standard of the juveniles who are involved in crimes.

To give the soothing recommendations and measures to handle and manage the juvenile delinquency

METHODOLOGY:

For this study took the primary and secondary data from various sources. Primary data was collected through a study of the constitutional issues from newspapers and magazines and referred editorials.

Secondary data is collected through various research scholars' papers on similar issues, articles, and surveys.

SUGGESTIONS:

The Juvenile Justice (Care and Protection of Children) Act, 2015, takes appropriate and strict action to implement the laws that deals with conflicts of children in need and protection, treatment, development, and rehabilitation.

School social workers and parents should be appointed to identify the problems of students in the early phase to overcome the problems.

There are provisions for Special Police units for dealing with Juveniles at every police station. These special units are not functional. So, when there are cases of juvenile delinquency or when neglected children are taken to the police, the police department is not able to handle the cases expectedly.

Educating the families to understand the needs and problems of their wards, and take responsibility to provide a healthy environment and the relationship and values of the family.

Community awareness programs should be organized to aware the community people aware of the rules and regulations related to juveniles.

LANDMARK JUVENILE CASES

1. **Sheela Barse v. Union of India (1986)**

In this case, a petition was filed asking the court to release children under 16 years of age kept in jails in different states. Information related to the number of existing juvenile courts, shelters, and schools, along with other information related to those children in the prison. In response, the Supreme Court issued notice to the respective respondents and directed the Judicial Magistrates in districts to visit and inspect all jails, shelter homes, observation homes, etc. in their districts and make a report that must be submitted to the court within a week. The major

issue in this case was whether the children under 16 years of age who are kept in jails are treated badly and abused or not.

The Supreme Court observed that it is a settled principle in law that children must not be confined to prisons like adult criminals, as it would have harmful effects on them that would affect their growth and development. The following directions were given in this regard:

2. **Hari Ram v. State of Rajasthan (2009)**

In this case, a person named Hari Ram was accused of committing many criminal offenses. The issue was related to his age and whether the accused should be treated as an adult or a juvenile. After the trial commenced, the Additional Sessions Judge determined the age of the accused to be below 16 years on the date the crime was committed according to the 1986 Act, and so his case was referred to the Juvenile Justice Board in Ajmer, Rajasthan. The High Court, on the other hand, relied on the testimony of his father and medical reports and held that at the time of the commission of the offense, the accused was above the age of 16 and, hence, excluded him from the ambit of a juvenile. However, the 2000 Act increased the age from 16 years to 18 years under which a child would be considered a juvenile under the Act.

The issue before the Supreme Court was which Act would apply to the accused. The Court held that all the pending cases would be dealt with according to the 2000 Act after its enactment, so the same Act would be applicable in the present case and the accused would be considered a juvenile.

3. **Sampurna Behura v. Union of India (2018)**

In this case, a writ petition was filed by a social activist named Sampurna Behura and highlighted the problems faced by children and juveniles in observation homes, shelter homes, etc. She directed the attention of the Court towards various provisions in the Constitution that impose a duty on the state government to ensure the welfare and development of children and their failure to do so, like the establishment of a juvenile justice board, medical facilities for juveniles, proper living conditions, juvenile police, etc.

The Supreme Court in this case held that the Act must be implemented by state governments properly according to the needs of children and gave the following directions:

The Ministry of Development of Women and Children must ensure that the National Commission for Protection of Children's Rights and the State Commission for the Protection of Children's Rights work properly with adequate staff to provide better conditions for children.

The Juvenile Justice Board and Child Welfare Committees were directed to conduct regular sessions regarding the speedy delivery of justice to children in conflict with the law.

The Commission for Children's Rights, both at state and national levels, must perform its functions and duties properly and conduct surveys at regular intervals.

The chief justices of each high court were asked to make the environment of the court children-friendly for the juveniles.

The state governments and union territories must ensure that all institutions for children are registered and that facilities for nutrition, health, and education are given to them.

Members or officers of the juvenile justice board, child welfare committees, special police units for juveniles, child protection units in districts, etc., must be given proper and adequate training to deal with juveniles.

CONCLUSION:

The juvenile justice system is a system that provides an overall development and shield for early children. It is an optimistic perception that needs to be encouraged more and more for the benefit of the young child, as young children cannot understand right from wrong so they cannot be held in contradiction of them, however, in my opinion, there should be laws that should be executed so that the minors cannot take advantage of any of the situation that they are in, after all the law has to be equal to all.