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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

AN OVERVIEW OF JUVENILE DELIQUENCY IN INDIAN CRIMINAL JUSTICE SYSTEM¹

AUTHORED BY - SHALINI SINGHAL & DR. ANURADHA GARG

“A nation’s children are its supremely important assets and nation’s future lies in their proper development. An investment in children is indeed an investment in future; a healthy and educated child is the active and intelligent citizen of tomorrow.”

-Rabinder Nath Tagore

1. INTRODUCTION

A youngster is conceived guiltless, and on the off chance that the individual is encouraged with sensitive consideration and consideration, the person will grow up to be a positive individual. Kids' physical, mental, moral, and otherworldly development sets them up to arrive at their most prominent potential. Hurtful conditions, disregard of basic necessities, the ill-advised organization, and different maltreatments, then again, could form a young person into a delinquent. Because of moving social examples, kids progressively seem to serious areas of strength for have and despises as well as developed articulations since early on. These attributes additionally make young people more powerless against crooks' plans, like those of victimizers, sellers, and dealers. Moreover, the media essentially affects kids' psychological turn of events. A kid's openness to media, for example, TV, radio, music, computer games, and the Internet has expanded significantly as correspondence innovation has progressed.

Young people address around 40% of India's general population, and the country has a National Policy for Children that articulates children to be a public asset. No matter what this, the greater part of India's young people continue to live in poverty. All india has joined the United Nations Convention on the Rights of the Child, promising to try toward ensuring that its young people approach every one of the opportunities outlined in that. Both the amount of infringement executed by children and those committed against them has extended in India. Some place in

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the scope of 2003 and 2004, there was a 97.9% climb in children's offenses, with extra youngsters being caught for fire related wrongdoing, burglary, and cheating.

“About two centuries ago, Adolphe Quetelet, the eminent Belgium social statistician observed that adolescent, particularly young males are prone to crime, disorder and delinquency because of their childish impulsiveness or adolescent conflict. To quote him, the propensity to crime is at its maximum at the age when strength and passions have reached their height, yet when reason has not acquired sufficient control to master their combined influence. Since a Nation's future depends upon young generation, the children deserve compassion and bestowal of the best care to protect this burgeoning human resource. A child is borne innocent and if nourished with tender care and attention, he or she will blossom with faculties' physical moral spiritual and mental, into the person of stature and excellence. On the other hand noxious surroundings, neglect of basic needs, bad company and other abuses and temptations would spoil the child and likely to turn him a delinquent.”²

2. JUVENILE DELINQUENCY

At the point when a kid resists the law, this is known as adolescent misconduct. Misconduct is savage and solitary lead committed by somebody younger than 18; all in all, by a minor. Adolescent wrongdoing is alluded to as "misconduct." When an individual arrives at adulthood, their stand-off-ish or criminal way of behaving turns into a lawful offense. Therefore, adolescent misconduct may be portrayed as criminal way of behaving by youngsters and teens. Starting from the beginning of time, wrongdoing has been a significant issue. It happens when somebody abuses the law by an express demonstration, exclusion, or carelessness that is culpable. A youngster is conceived gullible, yet inferable from an undesirable climate, an absence of fundamental prerequisites, or some unacceptable organization, the individual might turn into a delinquent. To perpetrate a wrongdoing, somebody should as a rule have the plan to penetrate the law notwithstanding, this isn't generally the situation. The saying "obliviousness of the law is no exclusion" alludes to the way that an individual can be held responsible regardless of whether they encroach a regulation they know nothing about. Accordingly, adolescents are dealt with diversely in the equity framework when they are conceded the opportunity to be vindicated in regards to their legitimate obliviousness. A wrongdoing is

² Justice V. R. Krishnaiyer, JURISPRUDENCE OF JUVENILE JUSTICE, A PREAMBULAR PERSPECTIVE –Souvenir of the International Conference on shaping the future of Law hosted by the Indian Law Institute, Delhi on 21-25 March 1994.

characterized as a harming act or exclusion against the public that the state means to forestall and that is rebuffed by a fine, care, as well as death whenever indicted. There is no such thing as a wrongdoing except if generally characterized as such under the nation's regulations. A few violations, like burglary or criminal harm, might be viewed as common tragedies under which the guilty party might look for change.

“The term “Juvenile” is used for a person, who is under 18 years of age. The JJ Act, 2015 defines a ‘juvenile’ as ‘a child who is under of 18 years of age’.”³ “The juvenile’s age was again increased to 18 years by the Juvenile Justice (Care and Protection of Children) Act, 2000. According to this Act, ‘Juvenile’ means ‘a person. under the age of 18 years’.”⁴ The Act¹⁴ was basically enacted to express the dissatisfaction with regard to the Juvenile Justice Act 1986. In this context, the following proposals were made: -

- To follow and bind along with the UNCRC;
- To recommended age limit of 18 years for both boys and girls.

“In the case of *Pratap Singh v state of jharkhand* the Supreme Court was considered with a query as to “whether the date of occurrence will be the reckoning date for determining the age of the alleged offenders as juvenile offender or the date when he is produced in the court?” Court decided that “the reckoning date for the determination of the age of the is the date of the offence and not the date when he is produced before authority or in the court.”⁵

“*Shyam Narayan Singh vs. State of Bihar*, Patna High Court recognized that the age of the juvenile accused has been determined on the basis of age specified in the evidence which is produced before Magistrate, and that evidence was not reclaimed by any person.”⁶

“Juvenile Delinquency includes two kinds of conducts:

- a) Status Offences: An act legal for adult may be forbidden for child as these acts are considered to be delicate and unsuitable for their health.
- b) Delinquent Offences: These kinds of conducts are violation of legal enactments which applies to adults. Delinquent Offences involve murder, rape, assault, harassment, abuse, theft, criminal breach of trust, damage to property, etc.”⁷

³ S. 2(35), Juvenile Justice (Care and Protection of Children) Act, 2015.

⁴ S. 2(k), Juvenile Justice (Care and Protection of Children) Act, 2000.

⁵ Pratap Singh vs. State of Jharkhand, (2005) 3 SCC 551; (2005) SCC (Cri.) 742.

⁶ Shyam Narayan Singh vs. State of Bihar, (1993) Cri LJ 772 (Patna).

⁷ Juvenile Justice System in India and Critical Analysis of the Juvenile Justice (Protection and Care of Children) Act, 2000 with Juvenile Justice (Protection and Care of Children) Act, 2014 (Amendment), 2 Journal of Law

Demonstration of wrongdoing might include running away from home without the consent of guardians, Habitual conduct past the control of guardians, Spending time inactively past cutoff points, Use of indecent dialects, Wandering about rail streets, roads commercial centers, Visiting betting focus, Committing sexual offenses, Shop-lifting, Stealing and so on. A difficult issue like juvenile wrongdoing can't be cured just by government and administrative endeavors. In India, a large portion of the other states' kid security regulations have not been satisfactorily carried out. A portion of these Acts are defective by their own doing. Official mechanical assembly isn't being utilized satisfactorily to resolve this issue. To find a viable answer for the issue of delinquent way of behaving of an adolescent, government and confidential elements should cooperate with genuineness and reality.

3. CAUSES OF JUVENILE DELINQUENCY

a) Individual factors

An individual's late lead may be brought about by different conditions. A youth with unfortunate mind who has not gotten sufficient tutoring is more inclined to take part in delinquent way of behaving. Different factors that might be available incorporate indiscreet way of behaving, wild indignation, and a failure to concede want. Individual attributes incorporate psychological wellness issues. A person's state of mind essentially affects his activities in the public eye. Subsequently, these components can prompt an adolescent's commitment to perilous, damaging, and unlawful activities.

b) Family Factors

Family issues could incorporate intermittent family quarrels, disregard and misuse, or the absence of adequate parental direction. Kids who witness their folks' negligence for the law and social assumptions for the country might gain something very similar. Moreover, youths with the most unfortunate bonds to their family will quite often be about the very teenagers that participate in hazardous way of behaving.

4. HISTORICAL BACKGROUND OF JUVENILE JUSTICE SYSTEM INDIA

The Juvenile Justice Act of 1960 was active the nation over before the Juvenile Justice Act of

1986, which was embraced by Government to offer consideration, security, treatment, improvement, and rebuilding to deserted or defiant youths. Accordingly, the Juvenile Justice Act of 2000 was passed in India. Afterward, on December 30, 2000, the Juvenile Justice (Care and Protection of Children) Act, 2000, turned into the key regulative starting point for adolescent equity in India. This resolution was reexamined again in 2006 and 2010. Following the Delhi assault (sixteenth December 2012), this regulation attracted far and wide analysis for its incapability managing violations in which teenagers are embroiled in terrible wrongdoings like assault and murder yet are not arraigned. The Government then sanctioned the Juvenile Justice Bill, 2014, which turned into the Juvenile Justice Act, 2015. It went into effect on January 15, 2016. “Section 2(a) of the Act of 1986 classified a juvenile as a male that has not achieved the age of 16 years and a girl who has not gained the age of 18 years.”⁸

5. JUVENILE JUSTICE SYSTEM IN INTERNATIONAL PERSPECTIVE

“The juvenile owing to their early stage of human development require particular care and assistance with regard to physical, mental and social development and require legal protection in condition of peace, freedom dignity and security, but the international recognition of the rights of the Juvenile children came very late. Though some people think that the law has gone too far from time to time, social scientists pause to ponder over the direction in which their discipline is moving.”⁹ In Caracas, Venezuela, in 1980, the sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders laid forward five basic guidelines that it acknowledged should be addressed in a lot of rules to be taken on for the association of juvenile value to save the fundamental normal freedoms of young people in issues with the law. “The rules could then serve as a model for united national Member States in the treatment of juvenile offenders. The congress recommended that the Committee crime Prevention and Control, a standing committee of the Economic and Social Council, be requested to develop such rules.”¹⁰ Kids' freedoms require exceptional security and a solid climate as per UN standards and purposes. Kids' privileges should be safeguarded as per the UN Charter and common freedoms regulations even in the midst of war or unfamiliar occupation, hence an Optional Protocol to the Convention on the Rights of the Child was taken on by the General Assembly of the United Nations. A youngster's Right to be Involved in Armed Conflicts on

⁸ S. 2(a), Juvenile Justice (Care and Protection of Children) Act, 2000

⁹ P.M. Bakshi, “ inaugural address”, KLJ 1981 Vol. 7, p.1

¹⁰ <https://www.ncjrs.gov>.visited on 18/06/2022

May 16 as a component of the 26th Red Cross Red Crescent International Conference in December 2000 Conflict gatherings ought to, bury alia, go to all plausible lengths to keep away from heightening Limit kids younger than 18 from becoming engaged with equipped contentions, particularly raising the base age limit for enlistment and restricting the genuine enrollment of youngsters support of individuals more youthful than 18 years in threats.

6. STATUTORY PROVISIONS IN INDIA

Various bills tending to kids needing care and security were documented in Parliament following autonomy; these bills were discussed and passed by Parliament. In any case, not every one of them passed. This was the principal adolescent equity act passed following autonomy. Known as the Children's Act. 1986 brought the Juvenile Justice Act, which contained a few point by point arrangements. Adolescent equity arrangements Juvenile equity is a framework that accommodates the consideration and security of youngsters. The Juvenile Justice (Children) Act of 2000 was supported, which was an extensive piece of regulation on adolescent equity. The Juvenile Justice (Care and Protection of Children) Act 2015 is the latest regulation.

1. Indian Constitution

- a) **Article 14** – “This Article of the Indian constitution provides for right to equality that is the state shall not deny any person equality before law.”¹¹
- b) **Article 15** – “This Article of the Indian constitution provides that there shall be no discrimination on the Indian citizens on the basis of any category.”¹²
- c) **Article 21(a)** – “This Article talks about the right provided to every citizen(age 6 – 14 yrs) a right to free education that is to be provided by the state.”¹³
- d) **Article 24** – “This Article mentions about the right of the citizens of this country against any kind of exploitation against them. This Article states that no citizen (6-14yrs) shall be employed into factories or other sets of employment.”¹⁴
- e) **Article 39** – “This Article provides for a right to adequate means of livelihood that the state shall ensure for every citizen of the country.”¹⁵

¹¹ Article 14.of the Constitution of India.

¹² Article 15.of the Constitution of India.

¹³ Article 21(a).of the Constitution of India.

¹⁴ Article 24.of the Constitution of India.

¹⁵ Article 39.of the Constitution of India.

2. Indian Penal Code, 1860

- a) **Section 82** – “An act done by any person below the age of 7 years will not be counted as an offence.”¹⁶
- b) **Section 83** – “An act done by any person (7-12yrs) will not be Counted as an offence if he has not maturity to understand the gravity and consequences of his own act.”¹⁷

3. Criminal Procedure Code, 1973

- a) **Section 27** – “This section provides that the trial of a juvenile offender can only be done by a chief judicial magistrate as he has been authorized by this section.”¹⁸

An overview of Juvenile Justice (Care and Protection of Children) Act 2000:

“The new Act known as the Juvenile Justice (care and protection of children) Act, 2000 is an improvement over the law which was replaced by passing this act. The object of the legislation is to amend the law relating to juvenile in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment and by creating to their developmental needs. This is being done by adopting a child friendly approach in the adjudication and disposition of matter in the best interest of children and for their ultimate rehabilitation through various institutions established under this law.”¹⁹

Except for the region of Jammu and Kashmir, the Juvenile Justice Act of 1986 was executed dependably across India. Before the passage of this goal, each state had its own young adult value guideline, with aberrations in how youths were treated by different state general arrangements of regulations. The Government of India took an important move by dropping the Juvenile Justice Act of 1986 and introducing the Juvenile Justice (Care and Protection of Children) Act in 2000, which was in this way revived in 2006 to set it open to making assumptions in the field of young adult value and UNCRC rules. The Juvenile Justice Act of 2000 designs to join and change guidelines interfacing with youths in battle with the law and young people requiring care and security by giving genuine thought, protection, and treatment by dealing with their developmental prerequisites, by embracing a youngster obliging strategy in settlement and disposition of issues to the best benefit of young people, and by reestablishing young people through various institutional parts. “The approach of the Supreme Court towards

¹⁶ Section 82 of Indian Penal Code 1860.

¹⁷ Section 83 of Indian Penal Code 1860.

¹⁸ Section 27 of Criminal Procedure Code, 1973

¹⁹ R. N. Chaudhary, Law Relating to Juvenile Justice in India, 4th edition, Orient Publishing Company, New Delhi, 2015, p. 21

juvenile has been very liberal. It was way back in 1977, when Supreme Court in a case held that penalty of death should not be imposed on a person below 18 years of age. Borstal Acts and Reformatory Schools Acts had the children guilty of offence punishable with death or life imprisonment in their focus.”²⁰

7. IMPORTANT JUDGEMENTS:

Om Prakash v State of Rajasthan

“In this case it was held by Supreme Court that in a situation when the school record itself is not free from ambiguity and conclusively prove the minority of the accused, medical opinion cannot be allowed to be overlooked or treated to be of no consequence. In this context the statement of the medical jurist who conducted the ossification test of the accused and opined before the court that the accused was 19 years of age is of significance since it specifically states that the accused was not a juvenile on the date of commission of the offence. The statement of Radiologist also cannot be overlooked since he opined that on the basis of x-ray films, the age of the accused is above 18 years and below 20 years. Thus, in a circumstance where the trial court itself could not arrive at a conclusive finding regarding the age of the accused, the opinion of the medical experts based on x-ray and ossification test will have to be given precedence over the shaky evidence based on school records and a plea of circumstantial inference.”²¹

Trikambhai Kavabhai vs. State of Gujarat

“In this case accused was charge-sheeted under section 302 of IPC. he did not produced any documentary evidence to prove his date of birth. Prosecution produced school leaving certificate in which date of birth of accused was mentioned by accused, s father considering which accused age was above 18 years at the time of offence. As per courts order ossification test was also conducted as per medical certificate on ossification test and radiological examination accused was found 18 to 20 years at the time of offence. High Court held that Order declaring accused was not proper due to error by Court in giving benefit of variation of 2to 3 years to accused.”²²

Chandan Kumar Gandhi vs. State of Bihar

²⁰ *Raisul v State of UP*, AIR 1977 (SC) 1822

²¹ *Om prakash v State of Rajasthan* 2012 (77) ACC 654 (SC).

²² *Trikambhai Kavabhai vs. State of Gujarat* 2013Cri LJ 1386 (Guj)

“In this case Patna High Court held that matter of juvenility has to be inquired into by the Juvenile Justice Board, as per provisions of Juvenile Justice (Care & Protection of Children) Act, 2000 and the Bihar and Central Rules framed there under. This would require an inquiry to be conducted by the Board first. The board would be required to get the matriculation certificate examined by the authorities of the Bihar School Examination Board in all particulars. If, that is found to be correct, then no further evidence would be required in case of Manish Kumar. The Board would be required to notice the School authorities who have granted the transfer certificate in respect of Chandan Kumar and direct them to produce authentic original admission register and other records of the school in which date of birth was first recorded in respect of that appellant. Then considering all these aspects and the medical report which is of a Board constituted pursuant to the orders of the Chief Judicial Magistrate, Muzaffarpur. The board would come to an independent finding in this regards without being prejudiced by any other order or orders of any authority or court, as it is their independent jurisdiction in the matter.”²³

8. CONCLUSION

The world's most noteworthy populace of youngsters lives in India. The Indian Constitution guarantees that all youngsters in the nation have essential privileges and approves the public authority to make specific plans for them. The Directive Principles of State Policy explicitly direct the state in safeguarding kids younger than eight from misuse and guaranteeing that youngsters are furnished with a potential open door and offices to foster in a sound manner in a free and noble climate. The state is answerable for shielding kids against abuse and moral and material abandonment¹. The profile of Indian kids exhibits that by far most of them are poor, coming up short on making it one more day, food, and formative choices.

The chance of youthful grown-up awful way of behaving is decidedly no more considerations in India. The adolescent bad behavior is worried about the crook way to deal with acting or amazing way to deal with acting of a young. There were no systems for recognizing and characterizing deplorable offenses preceding the presentation of the JJ Act, 2015. The "Adolescent Justice (Care and Protection of Children) Act, 2015" was presented after the shoot wave of the Delhi Gang Rape (Nirbhaya's Case) shook the parliament with allegations of not having the option to adapt to the situation. The Act determines the arrangements connected

²³ Chandan Kumar Gandhi vs. State of Bihar 2010 Cri LJ 1814 (Pat)

with grievous offenses and the age of an adolescent will be understood as 16 years on account of serious wrongdoings like homicide or assault. The Juvenile Justice (Care and Protection of Children) Act, 2015 is a basic positive development for India's young adult value structure. Not totally permanently established from the above assessment that the focuses, scope, game plans, definitions, and fundamental principles are the basic features of the JJ Act, 2015 that have a valuable demeanor toward juvenile criminals.

The state has perceived the responsibility of giving idea and attestation to young people. It has expected to give such thought and confirmation to delinquent and overlooked young people through government help plans and the Juvenile Justice System. Regardless, studies have shown that the plans are missing and the Juvenile Justice System is failing.

“It is sensible to anticipate from these strategy deductions that the state knows about the quantity of Juveniles and kids' to whom it tries to guarantee appropriate consideration and assurance, and that the plan contained in the regulation is fit for releasing its commitments under the regulation. Sadly however, even the evaluation date doesn't give the quantity of kids under eighteen years old. While there are a few raw numbers accessible for the classification of 'adolescents', there are just gauges for the majority of the subcategories of youngsters included inside the domain of the JJ (C&P) Act and those, as well, contrast from one another significantly to be of any assistance in arranging.”²⁴

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