

Crimes in India by Juvenile and the Law

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Abstract

Threat and cause are not symptom. Government of India needs to wake up to this idea when it comes to the dealing with juvenile delinquency. Juvenile delinquency problem has been existing when time immemorial. It is an important feature of all societies, but it is simple or complex. To solve this problem the Juvenile Justice System Act, 2015 came into force on 15th January 2016 which defines new boundaries with regard to penalizing juveniles and providing children impoverished backgrounds with basic needs and facilities that they require to live. This article mainly focuses on juvenile delinquency, evolution of juvenile justice system in India, need of juvenile justice Act 2015.

Key words: Juvenile Crime, juvenile justice, Juvenile Justice System Act 2015.

Introduction

Children are measured to be hand-outs from God and are utmost personal as well as national assets. We as individuals, parents, guardians and society as a whole have a duty that children should be allowed and provided opportunity to grow up in a healthy socio-cultural environment so that they could become responsible citizens, physically fit, mentally alert and morally healthy. It is the duty of the State to provide equal opportunities for development to all children during the period of their growth which would reduce inequality and ensure social justice. Children are expected to be obedient, respectful and have virtues and good quality in them. However, due to various reasons certain percentage of children do not follow settled social and legal dictum. Such children are most often than not get involved in criminal behaviour which is known as juvenile delinquency or juvenile crime.

Crime by juveniles is a harsh reality in India. In recent times juveniles were found to be involved in most heinous of the crimes such as murder and gang rape. It's a disturbing trend and society as a whole is anguished by such criminal acts by children. Many experts believe that the present law is inadequate to deal with the situation and we need changes in it so that for heinous crimes juveniles may also be tried and punished as adults. But there are views in opposition as well which do not subscribe to this view. In the present article, we would try to understand who is a juvenile; crimes committed by juveniles; its reasons; laws and proposed changes by the Government in the same.

Who is A Juvenile?

Juvenile means a person who is very young, teenager, adolescent or underage. In other words, juvenile means children who have not yet reached the age of adults in the sense that they are still childish or immature. Sometimes the term "child" is also interchangeably used for the term "juvenile".

Legally speaking, a juvenile can be defined as a child who has not attained a certain age at which he can be held liable for his criminal acts like an adult person under the law of the country. Juvenile is a child who is alleged to have committed certain acts or omissions which are in violation of any law and are declared to be an offence.

In terms of law, a juvenile is a person who has not attained the age of eighteen years. It has a legal significance. As per the Juvenile Justice (Care and Protection) Act, 2000, a juvenile shall not be treated as an adult even if he/she is involved in any criminal acts for the purpose of trial and punishment in the court of law.

Difference between A Juvenile And A Minor

Though in common language we use both the terms interchangeably but 'juvenile' and 'minor' in legal terms are used in different context. The term juvenile is used with reference to a young criminal offender and the term minor relates to legal capacity or majority of a person.

Juvenile Crimes in India

Petty crimes in general and heinous crimes in particular are being committed regularly in India by children. Crimes such as theft, burglary, snatching which are not so serious in nature or crimes such as robbery, dacoity, murder and rape etc which are relatively serious are on the rise in whole of the country. And the unfortunate thing is that all types of these crimes are also being committed by children below the age of 18 years.

Among juveniles also there is a specific trend that juveniles between the age of 16 to 18 years are found to be more involved in heinous criminal acts. According to the National Crime Records Bureau, the data of 2013 shows that of the 43,506 crimes registered against minors under the Indian Penal Code (IPC) and the Special Local Law (SLL) by juveniles, 28,830 had been committed by those between the ages of 16 to 18. The statistics also show the number of juveniles found to be in conflict with law under the IPC and the SLL has risen 13.6% and 2.5% respectively in 2013, as compared with 2012.

The recent inhuman gang rape of a young girl on December 16, 2013, shocked the collective conscience of the nation. The brutality with which the heinous crime was committed was most shocking; it was later found out that among five accused, one was minor and he was the most barbaric one.

Again, in another brutal gang rape case which is known as Shakti Mill Rape case, a minor was involved. These and several more recent events have triggered a public debate that the present Juvenile Justice (Care and Protection) Act, 2000 which treats persons below the age of 18 years as minor or juvenile, should be amended.

Reasons For Juvenile Crimes

No one is a born criminal. Circumstances make him so. Socio-cultural environment, both inside and outside of home, plays significant role in shaping one's life and overall personality.

Some of the most common causes which are associated with juvenile crimes are: Poverty; Drug Abuse; Anti-social Peer Group; Easy availability of firearms; Abusive parents; Single-parent child; Nuclear Family; Family Violence; Child sexual abuse and Role of Media.

However, as far as India is concerned, it is Poverty and the effect of media, especially the social-media which make juveniles more inclined towards criminal activities. Poverty is one of the biggest causes which force a child to get involved in criminal acts. Also, role played by social media today which is having a more negative than positive imprints on young minds. Others factors are also there which need greater study and analysis at a later time.

Juvenile Crimes In India And Law:

In India, the first legislation dealing with children in conflict with law or children committing crime was the Apprentices Act, 1850. It provided that children under the age of 15 years found to have committed petty offences will be bounded as apprentices. Thereafter, the Reformatory Schools Act, 1897 came into effect which provided that children up to the age of 15 years sentenced to imprisonment would be sent to reformatory cell.

After the Independence, with an aim to provide care, protection, development and rehabilitation of neglected or delinquent juveniles, our Parliament enacted the Juvenile Justice Act, 1986. It was an Act which brought uniform system throughout the country.

Section 2(a) of the Act defined the term 'juvenile' as a "boy who has not attained the age of 16 years and a girl who has not attained the age of 18 years". Later on the Parliament enacted the Juvenile Justice (Care and Protection) Act, 2000 which raised the age bar to 18 years for both girl and boy.

Present Legislation:

The Juvenile Justice (Care and Protection) Act, 2000 lays down that juvenile in conflict with law or juvenile offenders may be kept in an 'Observation Home' while children in need of care and protection need to be kept in a 'Children Home' during the pendency of proceedings before the competent authority. A juvenile can be detained only for a maximum period of 3 years irrespective of the gravity of offence committed by him and he will be remanded to 'Special Home'. The Juvenile Justice (Care and Protection) Act, 2000 provides immunity to the child who is less than 18 Years of age at the time of the commission of the alleged offence from trial through Criminal Court or any punishment under Criminal Law in view of Section 17 of the Act.

The purpose of this new Act was to rehabilitate the child and assimilate him/her in mainstream society. The rationale is that a child still has the possibility of getting reformed due to his/her tender age and lack of maturity and it is the responsibility of the State to protect and reform the child.

Proposed Amendment in Juvenile Justice Act, 2000:

Recently due to major hue and cry in public against the increasing number of crimes being committed by the juveniles, the Government has decided to present the proposed amendment in law in the current Parliament itself. This amendment would have far reaching effects on our criminal justice system.

In brief major changes are as follows:

The proposed legislation would be replacing the existing Juvenile Justice (Care and Protection) Act 2000. It has clearly defined and classified offences as petty, serious and heinous. It has been noticed that the increasing number of serious offences being committed by juveniles in the age group of 16-18 years. Thus, in recognition of the rights of the victims alongside the rights of juveniles, it is proposed that such heinous offences should be dealt with in special manner.

Therefore, it has been proposed that if a heinous crime is committed by a person in the age group of 16 to 18 years, the Juvenile Justice Board will first assess if the said crime was

committed by that person as a 'child' or as an 'adult'. The Juvenile Justice Board will have psychologists and social experts in it which would make sure that the rights of the juvenile are duly protected if the crime was committed as a child. The trial of the case shall proceed on the basis of Board's assessment report that whether the concerned juvenile has committed the crime as a child or as an adult.

Views 'For' And 'Against' The Proposed Amendment:

The Government of India has already given approval to the new amendments in the Juvenile Justice Act. Experts and common public both are having strong views regarding the same. A brief analysis of views is as follows:

Views in favour:

At present there are large numbers of people in the society who are demanding that juveniles and specially juveniles in the age group of 16 to 18 years should be treated as adult as far as their conviction in heinous crimes such as rape, gang rape, murder, dacoity etc. is concerned. The reason is that that in several of the recent incidents as described above, it has been found that the juveniles of 16-18 age group are involved in serious crimes and they are doing such criminal acts with full knowledge and maturity. The maturity level of children has not remain the same as 10-20 years ago, a child gets mental maturity early in present socio-cultural environment due to the influence of Internet and Social Media. Therefore, to have a deterrent effect it is important that such offenders in the age group of 16 to 18 should be punished as adults so that victims' could also get their justice.

Views in opposition:

The people and experts who don't subscribe to this view that juveniles in the age group of 16 to 18 should be treated as adults as far as their sentencing in heinous crimes are concerned are of the opinion that any law should not be amended or enacted by getting influenced from few incidents, because a law is for all and for all time. So it should be carefully drafted after taking into consideration all dimensions. For instance, in case of juvenile crimes, it should be considered that whether by punishing 16, 17 year olds we are following a punitive form of

justice system or reformatory system; whether there are no possibilities that the child would be reformed; and whether it is not true that after spending 10 years in regular adult jails with hardened criminals, the child would come out as a more toughened criminal.

Also, this view says that it is not only the responsibility of the child that he/she has committed such heinous crimes but it is also the responsibility of the society that why society has not been able to provide a proper and healthy childhood to the child and why such types of discriminations and deprivations, both social and economic, were there that the child was forced to commit crimes; also, why the State failed to provide care and protection to its children and let them drift towards criminal activities. Thus, it can be seen that there are strong views in both far and opposition of the change or amendment in Juvenile Justice Act.

Conclusion:

In conclusion it can be said that whatever changes be made in the Act, it should be the interest of justice which must prevail. A law must not be made or amended due to single act of barbarism; because a law is for all and for all time to come. Though it is true that children in the age group of 16 to 18 are increasingly being found in commission of heinous crimes but it is still only a little percentage of all the crimes committed every year in India. As per National Crime Records Bureau, in the year 2013, juveniles were charged with only 3.4 per cent of total number of rapes registered in India. Also, there is nothing to prove that harsher laws will lead to fewer crimes.

Therefore while debating the amendment in Parliament it must be discussed that whether we as a society want to have a justice system based on retribution and punishment or a system which is reformatory and assimilative for the juvenile offenders. The State as well as the society has a responsibility towards our children in the sense that they would not become wayward and remain in the social mainstream; hence, 'care and protection' must be the main motto while amending the Juvenile Justice (Care and Protection) Act and not punishment.

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