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NEED OF EFFECTIVE IMPLEMENTATION OF JUVENILE JUSTICE ACT

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ABSTRACT

In the past ten years, there has been a substantial increase in the number of cases of juvenile delinquency that have been brought to light in India. The rate at which adolescent criminality is becoming more prevalent in our culture is alarmingly fast, and it is difficult to fathom why this is happening. The word “juvenile” comes from the Latin word “juvenis”, which means “young”. The English word “juvenile” is taken from them. The term “juvenile” or “child” refers to a person who is younger than eighteen years old. Infants are distinguished by their lack of remorse or wrongdoing, as well as their vulnerability to damage. Furthermore, their appropriate growth and development are impeded when they are not provided with care and nurture. The development of one’s emotional, physical, moral, and spiritual growth is a factor that contributes to the achievement of one’s maximum potential. The proverb that has been passed down through the generations claims that “the younger generation of today will become the future leaders”. Each and every one of us is familiar with this remark. Could you please explain the explanation for this circumstance? When it comes to resources, a nation’s kids are its most valuable asset. The current academic achievement of the country’s youth is a critical factor in determining the future of the nation.

KEY WORDS: Justice, Juvenile, Future leaders, Potential, Young Generation.

INTRODUCTION

“We cannot always build the future for our youth, but we can build our youth for the future.

- Franklin D. Roosevelt”

When compared to the process of cutting a diamond, the process of raising a kid is analogous to the gradual formation of a specified form. Society has a significant impact on the physical appearance of children, much like a diamond that has not been polished. It has

been stated that the most proficient liars are those who were raised by parents who were highly rigid. When we call a child a liar, we are not only referring to the fact that they have a habit of speaking falsehoods, but we are also referring to the fact that they have a tendency to constantly act upon those lies, even when they are in the confines of their own home. When a person engages in juvenile delinquency, they go from a person who was formerly morally upright into a criminal. There is a conceptual framework that is used to study the participation of a minor in any illegal actions. This framework is referred to as juvenile delinquency. There are several factors that contribute to the criminal behaviour of adolescents, including but not limited to: conflict within the family, graffiti, membership in gangs, and influence from peers, restricted spare time, and unfavourable living situations. The government of India has created several refuge shelters based on the strong idea that prevention is always more preferable than cure.

NOTABLE JUVENILE JUSTICE STATUTES

There is a separate court system in India that is only responsible for dealing with issues that are associated with the protection and welfare of children and adolescents. In the event that juveniles are prosecuted inside the same court system as adults, it is important to recognize that the system itself may be negatively impacted. “Doli Incapax”, which says that a person who has not yet reached the age of majority is incapable of developing criminal intent, is the essential assumption. As a consequence of this, the organization has built its very own method of justice, complete with its own set of procedures and conveniences. Guidelines for conducting interviews with juvenile offenders, expectations for the behaviour of prosecutors, the perspective of judges on finding guilt, the treatment of prison personnel, provisions for housing, healthcare, recreational activities, and safety goals are all included in this. The problem of juvenile misbehaviour and the requirement for an efficient juvenile justice system have persisted throughout the entirety of India. After serious consideration and deliberate anticipation, the Juvenile Justice Act of 2015 succeeded the Juvenile Justice Act of 2000 as the law that governs juvenile justice. Following the conclusion of the “Nirbhaya rape case”, it was determined that the sentence of three years in a reformatory was too short for the crime that was done. This was due to the fact that one of the perpetrators was a juvenile who was only a few months away from turning eighteen. An overwhelming number of people were incensed by the move, which resulted in the immediate beginning of discussions on the possibility of lowering the age of legal maturity from 18 to 16.

The topic received a lot of attention from the general public after the “Supreme Court of India” made a unilateral decision to acknowledge the global circumstances of child safety homes in light of the COVID-19 epidemic. In the subsequent litigation, which was named “In Re Contagion of COVID-19 virus in Children Protection Homes”, the court issued rules for optimal practices, and the states were forced to comply with these regulations. The scenario in Chennai, in which it was determined that thirty-five children living in a shelter house run by the government had been infected with the coronavirus, was the impetus for this move. The Juvenile Justice Act of 2015 was passed by the government with the intention of protecting children from harm and discouraging juveniles from engaging in illegal and antisocial behaviour. The efficacy of the legislation, on the other hand, is limited by inherent restrictions, poor enforcement, and the inapplicability of essential elements of the legislation. As a result, the legislative body passed the Juvenile Justice Act of 2015, which stipulates that any serious offense committed by a person between the ages of 13 and 18 must be subject to the same penalty as an adult.

COULD THE ACT HAVE CONCEIVABLY INFRINGED UPON THE LIBERTIES GUARANTEED BY THE INDIAN CONSTITUTION?

If a juvenile between the ages of 13 and 18 commits a serious crime, they will be subject to adult prosecution in accordance with the Juvenile Justice Act of 2015. Some people believe that the Indian Constitution violates the rights of minors, which are outlined in Article 15, as well as the right to equality, which is outlined in Article 14. This is because the Constitution asserts that juveniles, which are defined as those between the ages of 16 and 18, have the same legal competence to defend themselves in normal courts as adults. When adolescents older than 16 who have been convicted of crimes are transferred to regular courts, it is a breach of their rights to equality and the Juvenile Justice system and a violation of the system itself. There is a disregard for the goals of institutionalization, which were intended to serve as the ultimate goal and to serve the best interests of individuals. Can persons who are between the ages of 16 and 18, who are commonly referred to as juveniles, be tried in a court that generally handles matters involving adults? If so, what are the chances of this happening?

When juveniles are brought before the adult criminal justice system, they are subjected to an enormous burden of responsibility to make prudent decisions, despite the fact that they lack the cognitive capacity to fully appreciate the implications of their acts. However, children who have developmental abnormalities are unable to seek legal representation or to request and obtain a fair hearing. They are also unable to participate in judicial proceedings. When it comes to the purpose of children's courts, the major aim is not only to monitor such situations but also to punish those who are responsible for acts committed against children. According to the standards of articles 14 and 21 of the constitution, which prohibit arbitrary processes, the preliminary investigations that were carried out by the Juvenile Justice Board are in direct contradiction to these principles. In order to establish the minor's real involvement in the conduct of the felony, the Juvenile Justice Board is tasked with assessing the minor's cognitive and technical competence to commit the offense. Additionally, the evaluation of the circumstances surrounding the commission of the felony is also a part of this work. A decisive decision of guilt can be made by the Juvenile Justice Board even in the absence of prima facie evidence of guilt. This authority permits the board to make such a determination.

There is a possibility that the lengthy and rigorous cognitive evaluation may result in abnormally large alterations. The Juvenile Justice Board is the only entity that possesses the unique capacity to facilitate this, and the participation of certified psychologists is considered to be insufficient. Because of the ongoing nature of the investigation into reformation that is conducted by the Children's Court, it is seen as arbitrary in accordance with the principles of procedural fairness that are described in "Article 21".

AN ALARMING SPIKE IN INDIA'S JUVENILE DELINQUENCY RATE

Only aid, a positive attitude, and a supporter who has trust in their capabilities are required for youngsters living in the modern day. The problem of juvenile delinquency represents a substantial threat to the social fabric of the nation as a whole. Regardless of the specifics of the situation, the juvenile court uses this phenomenon as a socio-legal notion in order to stigmatize young people. These young people are the last players in the judgment process, which includes the media, the police, and the juvenile court. The act of participating in conduct that is in violation of the law is another meaning of this term. As a response to the growing engagement of persons between the ages of 16 and 18 in significant criminal activities, which was noted following the "Nirbhaya tragedy", the "Lok Sabha" made the decision in 2014 to draft the "Juvenile Justice Bill". There is a direct contradiction between the goals of the Juvenile Justice Act and the statistics that have been published by the

“National Crime Records Bureau”. These statistics reveal that adolescents, namely those between the ages of 16 and 18, have demonstrated higher levels of criminal behaviour.

ASSESSMENT OF LEGISLATIVE PROCESS IS INHERENTLY SUBJECTIVE

The manner in which the courts deal with juvenile offenders is another factor that has a role in the legal classification of a child. One of the most important aspects to take into consideration is the defendant’s age. Due to the fact that children lack the maturity to completely comprehend the consequences of their actions and also lack the capacity to choose between right and wrong, it is not conceivable to submit a kid to the same trial and conviction procedure as an adult. When legislation and the process of determining the age of children are in conflict with one another, a complicated situation occurs. In accordance with this Act and its earlier iterations, the Supreme Court and the High Court have made decisions regarding a number of cases that involve the assessment of an individual’s age. In the event that a child’s birth certificate is absent, it is possible to deny them care and protection and to remove them from the jurisdiction of the Juvenile Justice Act.

It is considerably more challenging to determine whether an individual has undergone a “reformatory improvement” or “can be a productive member of society” when the state’s rehabilitation programs are inadequate. This is because the evaluation is subjective and arbitrary. People in India who have been victims of violence are the focus of the most recent proposed legislation, which is now under consideration. Furthermore, more than fifty percent of the children who were incarcerated for committing criminal acts were from families with annual earnings of less than twenty-five thousand rupees, but only fifty-five percent of the children who were incarcerated came from houses with annual incomes that were greater than three hundred thousand rupees.

PROBLEMS WITHIN THE FAMILY AS A WHOLE WHEN DETERMINING RESPONSIBILITY

Whether it is a favourable or bad influence, the influence of family on the development of adolescents is considerable. In the event that individuals do not obtain a more favourable atmosphere and improved emotional support at home, they will start looking for these things in other places. Due to the fact that children frequently copy their parents’ actions, it is a good idea for parents to consider using the terms “mom” or “dad” to call one another rather than their given names. Because it is a means of early communication and the acquisition of the ability to discern between persons, imitation is an essential component in the process of development that a kid goes through. As a result of the fact that children will only consume the food that is shown to them, it is essential to keep a tight eye on their conduct at all times, not just during their formative years. If a young kid is exposed to domestic violence within own household, for instance, they may internalise and absorb the behaviour of the perpetrator. It is possible for a child’s perspective on life to be drastically altered if they come from a dysfunctional household and go through the experience of parental abandonment or divorce throughout their youth.

Every member of the family strives to model their own behaviour after the moral and ethical standards set by their parents. There is no question that the family of a teenager has a significant impact on the development of their personality and the way they behave. However, when children are not safe within their own homes, they may engage in violent behaviour or exhibit indicators of juvenile delinquency. This can be a problem for the children. It is estimated that the great majority of those who are incarcerated come from socioeconomic circumstances that are lower. Keep in mind at all times that you can never count on anybody else for assistance. They are subjected to a more severe crackdown by the authorities, who have limited financial resources at their disposal. The wealthy, it has been

demonstrated, stand to gain a great deal from the regulatory processes that are carried out by law enforcement. When two individuals who come from different socioeconomic backgrounds do the same criminal conduct, it is more likely that the one who comes from the lower social strata will be charged with the crime and subsequently found guilty of the crime. Indisputable evidence suggests that the current state of the economy has a large and pertinent impact. There are feelings of psychological fragility and insufficiency that are present inside the mind of a person who has the potential to participate in criminal activity. Inadequate nutrition and a lack of physical fitness are two factors that contribute to a decline in the ability to resist behavioural temptations, which is one of the consequences of poverty.

SUMMARY OF 2015 JUVENILE JUSTICE ACT RESTRICTIONS

- Under the Juvenile Justice Act of 2015, the idea of parental responsibility in cases of “juvenile delinquency” remains undefined.
- The Juvenile Justice Act of 2015 does not offer the substantive and procedural protections, such as the right to equitable treatment, the right to a trial that is conducted promptly, and the presumption of innocence, among other things.
- Child employment, sexual abuse, exploitation, education, adoption, etc. are all separate issues from the Juvenile Justice Act, 2015.
- The primary goal of this legislation is to ensure the social welfare of the minors. On the other hand, it has not come up with any plans to help the juvenile offender with things like healthcare, education, legal representation, or social services.
- Seemingly, the legislation has been swayed by special interests in the legislature, which has included a harsh procedure for juveniles as a means of punishment and to appease popular demand. There is no longer any obligation for the legislation to safeguard children. The act just takes the easy way out by making provisions for harsher punishments; it does not address the underlying societal problems of why children commit crimes or why there has been a rise in crime among the relevant age group.

ALTERNATIVE APPROACHES

One of the most important factors that determine the success of a nation is the strong growth and well-being of its children, who are considered to be the nation’s most precious assets. Teenagers need to undergo a significant transformation in order to develop the skills necessary to become effective campaigners against legislation. Education plays a key part in the development of human resources since it helps to improve the socioeconomic structure of a nation and acts as the basis for human resource development. Even if economic development is beneficial to every single person, it is of the utmost importance to give priority to providing assistance to the most disadvantaged members of society, such as children, women, the elderly, and those who are living in circumstances of poverty. In order to completely eliminate juvenile delinquency, it will not be sufficient to just execute and revise the Juvenile Justice Act. Initiatives for the development of children, such as the “Kishori Shakti Yojana”&“Rajiv Gandhi Scheme for the Enhancement of Teenage Girls”, should be actively and steadfastly supported by the governing body in order to improve the growth and well-being of young women. For the purpose of achieving the highest possible level of cost-effectiveness, rehabilitation facilities that are sponsored by the government should provide counselling and support services at drastically reduced prices. This would be helpful in keeping juvenile offenders who do not have the financial resources to enter expensive institutions that are run by non-profit organisations.

The development of a juvenile justice system that successfully strikes a balance between minimising government interference and institutionalisation, while simultaneously

implementing a robust rehabilitation process to prevent young individuals from committing additional offences, has been influenced by a number of different perspectives over the course of time. In light of this, it is of the utmost importance to initiate a campaign with the objective of enhancing the level of understanding among those who are involved in the execution of the “Criminal Justice Act of 2015”, particularly the Special Youth Police Unit personnel. The welfare of the child should be the government’s first priority, and efforts should be made to establish a welfare model for the administration of juvenile justice. The welfare model of juvenile justice focuses an emphasis on the well-being of the offender rather than only focussing on the offence or the punishment of the offender. This is rather than focusing solely on the latter. In juvenile justice systems that place a focus on rehabilitation, judges, probation officers, and authorities in charge of criminal probation are given a substantial amount of discretion to select the best appropriate course of action for the young people who are under their supervision.

CONCLUSION

Youth is the key to a nation’s future success and prosperity. The essential concepts of social security and the protection of children’s rights are the foundation upon which the Juvenile Justice Scheme is constructed. One of the key goals of the legal system is to make the process of rehabilitation and reforming persons as easy as possible. The establishment of an atmosphere that encourages the development of the child’s unique personality is the major goal of this endeavour. The ultimate goal is to work towards establishing a culture that is not just of high quality but also representative of all people. In the present moment, there is an opportunity to develop a solid foundation and put into action measures for the administration of juvenile justice. Even those who have not yet participated in engaging in illicit activities are being corrupted by a social structure that is intrinsically faulty and by legal measures that are ineffectual. The Juvenile Justice Act requires that the home be handled with careful attention and true compassion in order for the child to be reformed in the observation house. If this is to take place, then it is vital that the home be administered with genuine compassion. When considering the possibility that juvenile offenders would develop into adult criminals, it is abundantly clear that the existing juvenile act is being applied in an unfair manner and is founded on laws that are out of date and date back to the eighteenth century. In addition to being contentious, the provisions of the Criminal Justice Act are in direct opposition to the basic rights that are intended to be protected. It should be illegal for minors who are less than eighteen years old to have access to the present environment and the regular legal system. We place the highest focus on ensuring the health and safety of children involved in legal disputes, as well as providing them with education and attention. Due to the fact that children are the future of our country, it is of the utmost importance that we put into action significant steps to enhance the framework of the juvenile justice system.

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