

**DE JURE NEXUS LAW JOURNAL**

Author:

Afifa Shamim

Shyambazar Law College

4<sup>th</sup> year, BA; LL.B.(Hons.)**JUVENILE DETENTION CRIMINAL PROCESS**

The term 'juvenile' means or rather refers to a person who has not attained the age of eighteen years and is below the age of eighteen years. The word 'detention' means holding back someone especially in custody or prison. Henceforth the word 'juvenile detention' together means taking in custody or prison of a person who has not attained the age of eighteen years and is below of that age and has committed any unlawful activity harming the society and himself/herself on the whole. Therefore 'juvenile detention' is a criminal activity done by a child who has not attained the age of maturity and is put behind the bars which are made separately for children below the age of eighteen years.

Juvenile detention can include everything from an eighth grader skipping school to a child shop lifting from a neighbourhood retailer, to a seventeen year old committing murder. Whenever children under the age of eighteen years are accused of committing crimes, they are dealt with at least initially by the juvenile justice system in the state in which they live. As the very general rule, juvenile courts acknowledge that children who commits crime should be at least treated differently from that of the adults and as a result the courts are more concerned about rehabilitation, the improvement, the sense of understanding the difference between wrong and right rather than that of punishment.

Juvenile courts generally handle a few different kinds of cases, namely-

**DEPENDENCY CASES**, meaning when children comes to court because a parent has hurt them or not taken care of them, then this is a juvenile dependency case. In other words these are the cases in which the child is neglected or abused by a parent or guardian. Under such circumstances the child is made to find another home where the child can stay until he or she has attained the age of eighteen years.

**DELINQUENCY CASES**, means or rather deals in cases in which the child is accused of committing a crime or involves juvenile charged with criminal law violation.

Juvenile court proceedings are more informal than adult criminal proceedings. Police officers and judges often have greater discretion in dealing with children than they do when handling adult cases. Many cases are resolved without formal charges known as petition ever being filed against the child. Formal charges are most likely to be filed when the offense is serious or the minor is older or when a child has a history of bad behaviour or has been in juvenile court before or the child's parents are not able to handle the child. Juvenile criminal records are less likely to be available in public and it is often more easy to destroy the juvenile records. The punishment given to the juvenile is also far away different from that given to an adult. If a judge determines that a juvenile has committed the accused crime that is to say a petition has been filed the court can incarcerate the child in an adult prison, a juvenile facility or a group home.

Sometimes, children are sentenced to juvenile custody until they attain the age of eighteen years and then for further punishment they are moved to an adult prison. In both formal as well as informal proceedings the children can also be charged with other penalties as well, which are as follows:-

- 1- House arrest
- 2- Electronic monitoring
- 3- Counselling programs
- 4- Education programs
- 5- Community service.



# De Jure Nexus

---

When a police arrests a child on suspicion of committing a crime then there is a procedure for this and this is normally done by a special juvenile police unit according to section 106 of the Code of Criminal Procedure Act, 1973. A juvenile may be taken into protective custody for questioning and can be also handcuffed while transporting.

Juvenile detention is said to be a criminal process as each and every step and procedure that occurs and happens in case of an adult committing any crime more or less the same procedure and rule is followed that for the minors as well and if a minor is found doing a serious offence or crime then the minor too is sentenced to strict punishments. Juvenile detention takes place so that if a minor who has committed a crime at a very young age should be guided a punished as soon as possible in the best way that helps the minor to learn from their mistakes and not to repeat the same ever again in the future so as to become a better person in life ahead and bring pride to the country.

Similarly in case of an adult detention when after the arrest of the suspect is done then the charge sheet is filed and he or she is presented in front of the court where all the further investigations, procedures and other steps takes place, the exactly same thing happens in that of a juvenile arrest. After the arrest of the minor the first step is that the police generally enquire with the suspect that in normal word means the questioning and answering round

after which all the necessary investigation is done and the charge sheet is filed in the juvenile court where the further steps and process follows.

Juvenile justice is a legal framework which defines justice for juvenile under the Indian legal system. The system is giving a special treatment and protection to juvenile detention. Many a time justice was delayed or denied to the minors due to lack of awareness or rather least interested. Henceforth in 2015 and act was passed by the Parliament for the justice of the minor or children known as the Juvenile Justice Act 2015 which has its territorial extend up to the territorial boundaries of the country India.

A child is born innocent but due to some improper care and guidance and negative social and environmental factors the minor is tend to divert his or her mind towards criminal tendency. When a child commits a crime their mental state is different from an adult so the child requires proper care and concern different from that of an adult.

There are several types of cases heard and decided in a juvenile court namely:-

- 1- Traffic cases
- 2- Abuse cases
- 3- Custody cases
- 4- Paternity cases
- 5- Delinquency cases.

The duration of imprisonment for juveniles is not very accurate as it can vary for few hours to few weeks, months or even years in some cases depending on the effect of crime that has taken place.

LANDMARK CASE WHICH MADE A NEW WAY FOR LAWS IN INDIA:-

The Delhi gang rape case shook the whole country in which 6 rapists were found amongst them one was a minor aged 17 years and the rest adults. The punishment given to the rapists were 10 years of imprisonment to the adults and three years for the minor. Further on this judgement the public started to protest that there should be no minor or major when it comes to raping a female. Henceforth after all these protests the age for juvenile detention was reduced from 18 years to 16 years of age. This was a remarkable judgement which took a drastic turn in the history of juvenile detention and punishments.

Few cases of juveniles are as follows:-

- 1- Sher Singh VS State of U.P
- 2- Hari Ram VS State of Rajasthan
- 3- Babbo Singh VS State of U.P
- 4- The State of Madhya Pradesh VS Ramesh Nai
- 5- Selvi VS State of Kerala

Since delinquency is an ongoing problem in today's society, there needs to be more programs created in order to correct this issue. Children are valued assets. They need to be protected and nurtured and to be steered away from deviance. This requires the entire community and village and town to take part in raising children. This juvenile delinquency is a serious issue in our society today which requires more attention since it determines the values of the next generation. Parents and society at large have a duty and role to play.

Juvenile detention is a criminal process and the crimes that occurs and happens due to the minors requires or needs to be stopped as the minors are the young and upcoming generations and they need to be on the correct and right path for the betterment of the society and the country on whole. Juvenile detentions are made so that if and by mistake if any crime tends to happen by a minor then this detention is made so as they realise their fault, learn from their mistake and become a better person in near future who will bring pride for the country on a whole. Thus in the end, children are the next generation and they need to be made to follow the right path for a brighter future and this requires the support of the society at whole as the society too plays a significant role in the formation of a child's future.



# De Jure Nexus

---

## LAW JOURNAL