

DE JURE NEXUS LAW JOURNAL

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VISTAS

3rd Year, BBA LL.B. (Hons.)**JUVENILE JUSTICE SYSTEM****ABSTRACT**

Until the early 19th century in the United States, children as young as 7 years old could be tried in criminal court and, if convicted, sentenced to prison or even to death. Children under the age of 7 were presumed to be unable to form criminal intent and were therefore exempt from punishment. This system was to differ from adult or criminal court in a number of ways. It was to focus on the child or adolescent as a person in need of assistance, not on the act that brought him or her before the court. The proceedings were informal, with much discretion left to the juvenile court judge

Every child is part of our society where he or she takes birth to until she or he dies. When the child grows day by day the child was learning from the family and the society. It's our responsibility to take care of growing child sec 2 of 'juvenile 'or 'child' means a girl or boy who is below the age of '18'years. Juvenile justice act 1986 defined juvenile or child a boy one who below the age of 16 years and girl one who below the age of 18 years.

INTRODUCTION

Juvenile or child who is the person not completed the age 18 under the Indian laws section 2[k] of juvenile justice care and protection of children act in the year of 2000 defines the child is a person who is the below age 18 the future of the country depends on children. So, it's our duty and responsibility to ensure that the children have safe environment to live in but gradually the rate of increasing juvenile crime like in India it has been very much increasing juvenile justice crime have been gradually increasing by day by day but they also finding the issue and type of juvenile crime in the society the most of the have happening due to economic condition and poverty and disintegration of family system etc.

‘So many kids end up in the juvenile justice system they are been able to get help They end up getting it [help]through the juvenile justice system and that’s wrong. A kid should have committed to get the help they need’

WHAT IS MEANT BY JUVENILE JUSTICE?

Defines the justice for juvenile under the Indian legal system juvenile system 2000 care and protection youngsters under the age group of 16-18. Juvenile justice is giving the special treatment and protection to delinquency. Delinquency means the crime committed by the minor one who the below the age of 18. In previous couple of years case of juvenile justice crime are increasing due to lack of education, modern developing society and family problem etc.



According to sub-section 12 of Section 2 of The Juvenile (Care and Protection) Act, 2015 a “child” means an individual who has not completed eighteen years of aged. The Act classifies the term “child” into two categories: –



- “Child in conflict with law” and
- “Child in need of care and protection”

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The child who has committed an offence and he or she is under the age of 18 years on the date of commission of the offence is essentially called as called as “child in conflict with law”. The second sub – category is “child in need of care and protection” means a minor ad defined under Section 14 of the

- **Children Act, 1960:** Section 2(e) of the Act states “child” means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years.
- **United Nations Convention:** The UN Convention on the Rights of Child, 1989 defines that “child” means a person’s being below the age of eighteen years unless the law declaration applicable to child, majority is attained earlier.

The Juvenile Justice Board is an institutional body¹. It is headed by a Senior Magistrate who has an exclusive jurisdiction to deal with the Juvenile cases.

- The eligibility criteria for selection as the Board has Section 4(4).
- Termination / Disqualification of the Board Members has been defined in Section 4(7).
- Placement of person, who cease to be a child during process of inquiry is defined under Section 5.
- Section 6: Placement of persons, who committed an offence, when person was below the age of eighteen years
- Any person who has completed 18 years of age, and is arrested for the commission of an offence when he/she was below 18 years, then such person shall be treated like a child during the process of inquiry.
- The procedure to be followed in relation to Board has been listed down in Section 7 of the Act.
- Section 8: Powers, functions and responsibilities of the Board
- Section 8(1): Powers
- The Board Constituted for any district shall have the power to deal exclusively with the proceedings under the Act:
- In the area of jurisdiction of the Board.
- In matters relating to children in conflict with law².
- The Functions and Responsibilities of the Board is defined under Section 8(3) of the Act.

JUVENILES IN CONFLICT WITH THE LAW [SECTION 10-26]:

- Section 10: Apprehension of child alleged to be in conflict with the law
- As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit, who shall produce the child before the Board within a period of twenty-four hours of apprehending

¹ Section 4 of the Juvenile Justice Act, 2015

² Puneet S. VS State of Karnataka [2019 SCC online Kar 1835]

the child excluding the time necessary for the journey, from the place where such child was apprehended.

- Section 12 provides bail to a person who is apparently a child alleged to be in conflict with law.
- Procedure on the production of the child accused who is in conflict with the law (Section 14 and 15 of the Juvenile Justice Act,2015):
- Section 14: Inquiry by Board regarding child in conflict with law
- The Board shall hold an inquiry in with the provisions of this Act and may pass such orders in relation to such child as it deems fit under section 17 & 18 of this Act.
- Section 15: Preliminary assessment into heinous offences by Board
- In case there is a case of heinous offense, then a preliminary assessment under Section 15 must be disposed of by the Board within a period of 3 months from the date when the child was produced before the board for the first time.

Orders regarding child found to be in conflict with law is defined under Section 18.

- Section 19: Powers of Children's Court

The Children's Court may decide whether there is a need or not for trial of the child as an adult. It should also ensure that the child is kept in a safe place until the age of twenty-one. The Juvenile Court decides whether the child should be released or sent to prison after reaching the age of 21.

Section 24 deals with the removal of disqualification on the findings of an offence.

- Section 26: Provision with respect of runaway child in conflict with law
- It states that any police officer can take charge of the child who has run away from a special home or an observation home or any other care of a person or an institution, the child must be produced with 24 hours before the Board.

CHILD WELFARE COMMITTEE [SECTION 27-30]:

- The Child Welfare Committee is an autonomous body declared as a competent authority to deal with children in need of care and protection.
- Section 27:
Formation of one or more Child Welfare Committee is mandatory in every district for exercising power and to discharge the duties conferred in relation to children in need of care and protection.
- This Committee consists of a chairperson and other four members in which at least one should be a woman.
- The appointment of any member shall be terminated by the State Government after making an inquiry.
- Procedure in relation to committee is defined under Section 28 in which the Committee shall meet atleast twenty days in a month for observing rules and procedures.
- Section 29: Powers of the Committee
- The Committee shall have the authority to dispose of cases and as well as to provide the Children their basic needs and protection. It also deals exclusively with all proceedings under this Act relating to children in need of care and protection³.
- Section 30: Functions and responsibilities of the Committee
- It consists of many functions in which an important function is taking action for rehabilitation of sexually abused children who are reported as children in need of care and protection to the Committee by Special Juvenile Police Unit or local police, as the case may be, under the Protection of Children from Sexual Offences Act, 2012.

CHILDREN IN NEED OF CARE AND PROTECTION [SECTION 31-38]:

- Section 31: Production before Committee

³ Krishna Kumar vs kollam child welfare committee

- Any child in need of care and protection may be produced before the Committee by any police officer, any public servant, any social worker, or by the child himself etc.
- Section 32 defines mandatory reporting regarding a child found separated from guardian.
- Section 33 and 34 defines offence of non-reporting and penalty for non-reporting respectively.
- Section 35: Surrender of children
- It states that if a parent or a guardian of the child wishes to surrender the child being it beyond their emotional, physical and social factors can produce the child in front of a Committee.
- Section 36: Inquiry
- On production of the child before the Committee as per Section 31, the committee shall an inquiry. After an inquiry, the Committee can decide whether the child is in need of care and protection or not.
- Section 38 deals with the Procedure for declaring a child legally free for adoption



REHABILITATION AND SOCIAL RE-INTERATION [SECTION 39-55]:

The rehabilitation and social re-integration of children under this Act is performed on the basis of the child's individual care plan. It is done ideally by family-based treatment such as return to the family or guardian with or without guidance or support, or adoption or foster care.

- Section 40: Restoration of child in need of care and protection

In this section "restoration and protection of a child" means restoration to

- a) parents
- b) adoptive parents
- c) foster parents
- d) guardians
- e) fit persons

- Various Institutional Care provided for the Juveniles such as Observation Homes, Special Homes, Children's Home and Shelter Homes.
- Non-Institutional Care are also provided for the Juveniles such as foster care, Adoption, Sponsorship and After-care Organization.

ADOPTION [SECTION 56-73]:

Adoption is the process in which the adopted child is permanently separated from his biological parents and becomes the legal child of his adoptive parents with all rights, privileges and responsibilities that are attached to a biological child.

- Adoption is done with the mutual consent of the family, who hands over the child and who receives the child. The main purpose of adoption placement is rather a family for the child than a child for a family⁴.

This Chapter provides all kinds of provisions relating to the Adoption of the Juveniles.

When students are occupied, they are not juvenile delinquent. I believe that education is a capital investment.

OFFENCES AGAINST CHILDREN [SECTION 74-84]:

It provides punishments and penalties to those who has done an offence against the Children
Offences such as

A crime is a crime no matter what the age of the criminal he needs to be punished

⁴ L.K Pandey V. Association of India

The children mental ability is not fully developed. So he should not be punished in some manner of adult.

CASE LAW

The case of Darga Ram v. State of Rajasthan

The Complainant had organized the jagran somewhere in the outskirts of the village in Rajasthan. Around 50 persons including men, women and children were there till midnight including 7 year old Kamala (victim) and Darga Ram(appellant). Kamala went to sleep along with other children in a nearby place. When the complainant i.e the father of the victim came to the house he found Kamala missing. Assuming that she may have gone to the relative's home, a search was made at their houses but Kamala was not been found. The search was then extended in the outskirts of the village and it was found dead by one of the member of the village. On further inquiry, it was found that Kamala had been raped and killed by crushing her head with the stone. A case under Section 302 and 376 of the Indian Penal Code was registered. The police further investigated and arrested Darga Ram who was a deaf, dumb and an illiterate adolescent on the basis of the injuries found on his private part along with blood stains which matched the blood group of the victim (Kamala).

CONCLUSION

I strongly believe that Juvenile crime can be easily handled if stopped at its source. Offenders usually develop the yearning to commit crimes when they are young, hence it constitutes a very good opportunity to confront their immorality, as children are more flexible and can easily be formed into positive characters. Psycho-social factors also play a very vital role in juvenile crime, as the way people think and live determines the general social decency of the young generation. Views among different groups of people are detrimental to minorities especially when they are negative. Societies with more visible differences such as races are likely to experience more rate of juvenile delinquency.

Each year, millions of juveniles are arrested for delinquency and even more participate or are at risk of participating in acts of delinquency. Delinquents face numerous challenges including risk for incarceration, school drop-out, drug use and an increase in the likelihood of adult criminality. Numerous programs attempt to prevent delinquency and rehabilitate delinquents; however, most fail to produce significant results. Juvenile delinquency has been an issue of society since the colonial era. During this period, juvenile offenders were made to serve the same punishment as an adult.



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