

Legal Services to Juvenile Delinquency

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Introduction

Juvenile delinquency also known as juvenile offending is participation of a minor in an illegal behavior. The juvenile delinquents are those individuals who are younger than the statutory age of majority who breaks the state laws or the federal laws via indulging into an offence which affects the peace of a particular individual or even the public at large. The psychology of the teenagers below the age of 18 years are at the process of mending due to which for the maximum times, they fail to think rationally. When the minors fail to think rationally, they are more exposed to commit mistakes and then they turn to be highly prone to commit crime as they fail to control their own thought process.

The statutory age of majority differs from one country to another. Focusing only within the territory of India and according to the Indian Majority Act, 1875, the statutory age of majority of an individual is when he/she turns to an age of 18 years old in case of parental guardianship. Section 3 of the Indian Majority Act, 1875 defines age of majority of persons domicile in India which can be mentioned as follows:

(1) Every person domiciled in India shall attain the age of majority on his completing the age of eighteen years and not before.

(2) In computing the age of any person, the day on which he was born is to be included as a whole day and he shall be deemed to have attained the age of majority at the beginning of the eighteenth anniversary of that day.

In the judgment of *Mahendra Singh v. State of Rajasthan*,³ the court held that the appellant faced trial for having committed murder. Trial judge convicted and sentenced him life imprisonment. The appellant contended, on the date of the incident he was less than eighteen years of age and as per the JJ (Care and Protection of Children) Act, 2000, he was juvenile, and, therefore, in view of Section 20 of the JJ Act he could not have been sentenced.

In *Motilal Hansda v. State of Bihar*,⁴ the appeal was directed against the judgment of the Additional Sessions Judge, Godda convicting the appellant and sentencing him to undergo

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³ 2004-(110)-CRLJ -1606 -RAJ

⁴ 2004 (4) JCR 171 (Jhr)

rigorous imprisonment for 2 years. The appellant submitted that a copy of the certificate duly attested by the Principle of the School was produced to show that appellant's date of birth was 9th August. 1975. Accordingly, he was aged 15 years and 10 months at the time of alleged occurrence i.e. 10.6.1990.

The High Court held “after going through the order of refusal of trial court and certificate produced by the appellant, he was discharged from bail bonds. Appellant was not sent to Juvenile Court, as he had crossed the age of juvenile”.

Apart from the Indian Majority Act, 1875, the Guardian and Wards Act, 1890 states that in case of a minor of those person or property or both, a guardian has been appointed under this Act, or whose property is under the superintendence of any court of wards before he attains 18 years of age then he would be categorized as major after attaining the age of 21 years.

Juvenile delinquents are often defined as children especially between the ages 10 years to 17 years who are involved in criminal activities and they are classified as repeat offenders and age specific offenders. The repeat offenders are also known as life-course persistent offenders who begin offending signs of antisocial behavior during their age of adolescence. It is a possibility that they even continue in engagement in criminal as well as aggressive activities even after their adulthood. However, Age Specific Offenders are those who begin their offensive activities during the age of adolescence and their behavior ends before the minor turns out to be an adult.

Research Methodology

Research can be primarily mentioned as a scientific systematic investigation into and study of materials and sources in order to establish facts. In a general sense it can be said that research includes gathering of data, information and facts for the advancement of knowledge. But in a formal sense research is performing a methodological study in order to prove a hypothesis or finding the answer of a specific question.

The research methodology used in this research paper is Doctrinal Research. It is a theoretical research and is regarded as pure in nature. There are various Conventional legal sources such as reports of various committees, legal history, judicial pronouncements (precedents), facts passed by legislature and parliament etc which are regarded as the sources of doctrinal legal research.

Objective of the Paper

The objective of the paper is to analyze the concept of Juvenile Delinquency, highlighting the provisions of the India Majority Act, 1875 where the age of majority of an individual is

provided along with the Guardian and Wards Act, 1890 where the age of majority is defined as 21 years. This paper's objective is to analyze the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 discussing various crimes in which the indulgence of a juvenile has been witnessed along with the reasons which forced a juvenile to commit any sort of crime.

Then the objectives of the legal services provided to the juvenile are mentioned whenever he is found indulged in any sort of heinous or simple crime. At the end, the final objective of the paper is to highlight the solutions to curb the problem of Juvenile Delinquency.

Description of Research Issues As Well As Precedents

In the last few decades, the crime rate in which the indulgence of children below the age of 16 years has been marked has increased tremendously. One of the possible reasons for the same would be due to change in the upbringing environment of a child, economic conditions of the family of a particular child as well as the parental care. It can be mentioned that the children especially under the age group of 5 years to 7 years are used as a tool for committing the crime due to their innocent state of mind which can be easily manipulated.

The incidence of *Nirbhaya Delhi Gang Rape Case*⁵ on December 16, 2012 shook the nation on the issue where a juvenile was involved. In this case, one of the main issues was the involvement of the accused, which was just about to turn the age of majority within just six months and which ultimately became the primary reason for the introduction of new law known as Juvenile Justice (Care and Protection), 2015. This new law has introduced the remarkable changes in the juvenile laws which strictly mentioned that if a juvenile (an individual aged between 16 years to 18 years) is found indulged in any heinous crime then he would be tried as an adult.

The maximum conversations regarding the crimes by the juvenile during recent years were primarily centered upon the age of criminality at the time when the juvenile committed that crime. The major focus area of discussion was whether in cases of commission of a heinous crime, the juvenile must be tried in adult courts or not. However, various activists, NGOs and psychiatrists working for the benefit of juvenile's offenders feel that the primary focus of discussion must be the reason of the involvement of youngsters for which they have been drawn into crime and what can be done to prevent this.

There is an anecdotal evidence that highlights a spurt in crimes committed by juveniles in the past few years, such an evidence was backed by data collected by the National Crime

⁵ 1998 SCC, Del 879 : (1999) 77 DLT 181.

Records Bureau (NCRB) which specified a substantial rise in the crime rate for juveniles during the period from 2010 to 2014⁶. However, the NCRB data is not acceptable as an perfect indicator of increasing criminality among juveniles. Presently, in India, around 65 percent to 70 percent of the total population is below the age of 30 years, also the population of youngsters has risen since the last few years. The total crime committed by the juveniles has increased alarmingly as well as such a situation that has been brought up by the juveniles requires a special and urgent attention.

Poverty has always bred resentment and is regarded as a root-cause of maximum crimes. But over the years, the fast-changing socio economic environment as well as the developing society has introduced other insecurities within the people. Except socio-economic and the educational group, the children are ignored by their own parents as now a day's parents fail to spend quality time with them. Stating the conditions of various categories of families, the lower middle class families, for instance, where both parents work, the children grow up in an isolated condition. However, stating the condition of the middle class families, parents keep maximum expectations from the child. This has the potential to make the school environment a threatening for the child. When children fail to cope up with the expectations, then depression ultimately leads to substance abuse of the child, which ultimately leads to commission of crime by that child and in the high-income families, every amenity is provided to the child.

Children are also quick enough to pick up on the friction between adults or their parents. "In the situation of marital discord or domestic violence, kids never consult their parents instead they opt for consulting their friends who may never provide them the best advice."

Another worse condition is when the child finds refuge in the virtual world where there is an overdose of information. A Constant exposure to aggression whether it is verbal or physical, whether is gained through the television news, any videos or games, such exposure works on a heightened imaginations, which makes it seem 'cool' to the children at an age especially during the period when he or she seeks role models or patterns of behavior that he or she would emulate in future. It either exposes the child desensitized towards violence or enables a curiosity within the child so that he or she experiments with it. There are certain reports in which the juvenile committed the crime only because he or she wanted to experience that how would it feel like if something like happens. The easy access to sexually charged or

⁶*The crime rate in which the juvenile was found indulged in*, HINDUSTAN TIMES (July 31th, 2018, 12:30 PM) <https://www.hindustantimes.com/india/juvenile-crime-the-new-age-of-offence/story6XmRBm1HkOGF1320a2M8rK.html>.

explicit content available online has the potential to create the same effect within the psychology of a child.

Legal Services to Juvenile

In order to provide legal services to the juvenile, certain guidelines are issued by the National Legal Services Authority (NALSA) in connection with the compliance of order dated 19th day of August, 2011 of Hon'ble Supreme Court in Judgment namely *SampurnaBehrua v. Union of India &Ors*⁷ to establish legal aid centers attached to JJBs.

1. When a child is produced before Board by Police, Board should call the legal aid lawyer in front of it, should introduce juvenile / parents to the lawyer, juvenile and his/her family/parents should be made to understand that it is their right to have legal aid lawyer and that they need not pay any fees to anyone for this.

2. JJB should give time to legal aid lawyer to interact with juvenile and his/her parents before conducting hearing.

3. Juvenile Justice Board should mention in its order that legal aid lawyer has been assigned and name and presence of legal aid lawyers should be mentioned in the order.

4. Board should make sure that a child and his parents are given sufficient time to be familiar with legal aid counsel and get time to discuss about the case before hearing is done.

5. Juvenile Justice Board should make sure that not a single juvenile's case goes without having a legal aid counsel.

6. Juvenile Justice Board should issue a certificate of attendance to legal aid lawyers at the end of month and should also verify their work done reports.

7. In case of any lapse or misdeed on the part of legal aid lawyers, Board should intimate the State Legal Services Authority and should take corrective step.

8. Juvenile Justice Board and the legal Aid lawyers should work in a spirit of understanding, solidarity and coordination. It can bring a sea-change.

9. Legal Aid Lawyer should develop good understanding of Juvenile Justice Law and of juvenile delinquency by reading and participating in workshops/ trainings on Juvenile Justice.

10. Legal Aid Lawyer should maintain a diary at center in which dates of cases are regularly entered.

⁷W.P.No. (C) No. 473/2005.

11. If a legal aid lawyer goes on leave or is not able to attend Board on any given day, he/she should ensure that cases are attended by fellow legal aid lawyer in his/her absence and that case is not neglected.
12. Legal Aid lawyer should not take legal aid work as a matter of charity and should deliver the best.
13. Legal Aid Lawyer should raise issues/ concerns/ problems in monthly meeting with District Legal Services Authority.
14. Legal Aid Lawyer should maintain file of each case and should make daily entry of proceeding.
15. Legal Aid lawyer should not wait for JJB to call him/her for taking up a case. There should be effort to take up cases on his/her own by way of approaching families who come to JJB.
16. Legal Aid Lawyer should inspire faith and confidence in children/ their families who cases they take up and should make all possible efforts to get them all possible help.
17. Legal Aid lawyer should abide by the terms and conditions of empanelment on legal Aid Panel.
18. Legal Aid lawyer should tender his/her monthly work done report to JJB within one week of each month for verification and should submit it to concerned authority with attendance certificate for processing payments.
19. Legal Aid Lawyer must inform the client about the next date of hearing and should give his/her phone number to the client so that they could make call at the time of any need.

Outcomes and Solutions

Every problem in the society is always backed by its solutions. The solutions to the juvenile delinquency can be primarily provided by the parents of those kids who turn out to be juvenile offenders. Parents are the most important part of the life of a child who can take the responsibility to fight against any odd or bad behavior that exists in the life of their children's personality. An individual especially during his teenage are not mature enough to understand whether their particular act is beneficial for them or not.

However, their parents completely understand about the benefits as well as harms an activity can do to their child during his or her teenage and their parents must keep an eye on their children. The parents must have knowledge about the company with which their child is sending time with. In case of any problems, the parents as well as the teachers should talk to the children about their problems and they should try to help the teens to solve

their problems. From early childhood, the parents must ensure that their children meet other children of their age.

The family should always have a positive attitude towards life as well as towards society. Parents and elder siblings should always teach their children positive values, norms and standards of society in this way the children will be able to show the right behavior to the society. The Government must also take initiative to support the families having poor economic and social status in order to help them improve their financial condition and also help their children not to fall for a bad company due to lack of financial resources. Parents must not forget to teach their children the importance of respecting laws of society as well as respecting all the citizens as well. Parents must inform their children about the consequences of breaking laws that were formulated by the government for benefit and betterment of the public. Parents should make sure that they observe equality of rights, justice and condemn discrimination.

Peer group influence is very strong on teens and parents should see the friends of their children. They should create a healthy and friendly relationship with their children. In this way children feel free to share anything and everything with their parents.