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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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JUVENILE JUSTICE SYSTEM: A SOCIO LEGAL CRITIQUE

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Abstract

The Juvenile Justice System is to prioritize rehabilitation over punishment. Aim of Juvenile Justice System to keep safe and provide the right conditions for them to learn and grow in a positive way. When a child or young person makes a mistake or gets involved in delinquency, the Juvenile court steps in to provide care and gentle treatment through special facilities. This way, juvenile offenders have the opportunity to find a path towards leading a decent life. It's all about giving them the support and guidance they need to turn things around and make positive changes.

Meaning and concept of juvenile.

The word 'Juvenile' comes from the latin word ('juvenis') which means "young" (who has not attained the age of majority). The word "Delinquency" means a person who cannot follow the norms or responsibility of the society, committing a crime or any wrongdoing. 'Juvenile Delinquency' Says that the children who committing unlawful activity which is against the society. Juvenile delinquency is a serious problem that affects communities, families, society and individuals. This can have negative consequences for the individual as well as society as a whole. The word 'Justice' means having a fair, equity and treating a People with respect. It's about making thing right and standing up against unfairness. Juvenile Justice and Juvenile court was more focused to reformation and rehabilitation of the child. The Juvenile Justice System focuses on helping children who have gotten into trouble. Its main goal is to protect them and create a positive environment that helps them grow and change for the better life. It's all about giving them the support they need to change their lives.

Juvenile Delinquency

To understand the concept of “Juvenile delinquency” defined under the section 2(e) and 2(h) of juvenile justice Act, 1986:

“Juvenile”: a child who has not completed age of 16 year of male and 18 year of female [sec-2(h)].

“Delinquency”: antisocial or criminal behaviour committed by a person who is under the age of 18 year.

So, violation of law by child is called Juvenile delinquency. We can say that Juvenile delinquency is the child and adolescent version of crime. Juvenile delinquency is also known as "juvenile offending" and each state has a different legal system for dealing with teenagers who break the law.

In the **Gopi Nath Ghosh vs State Of West Bengal**^[1] case, the accused said he was older than the age limit to be considered a child. But the court let him claim to be a child and asked the sessions judge to figure out his age. Then, in the **Rajinder Chandra vs State Of Chhattisgarh & Anr, 2002** [2] case, the Supreme Court said that the proof for determining age is based on how likely it is, not on being completely sure.

Some of the reason that are most common for a minor to turn to juvenile delinquency :-

Family risk factor:- Family risk factor can have a big impact on children's behavior. Family conflicts, divorce, and even the loss of a loved one can really affect their emotional well-being. It's important for parents to provide a supportive and nurturing environment to help kids develop healthy emotions and attachments.

Mental health risk factor:- Problem in school, environment mental desolation, each of recreational activities beer influence may lead to delinquent behavior. In society, when the environment is mentally challenging, it can lead to feelings of isolation and distress. Engaging in recreational activities, like drinking alcohol, can sometimes contribute to risky behavior. It's important to foster a supportive and inclusive environment in schools and encourage healthier ways to have fun. We should prioritize mental well-being and find activities that bring us joy without compromising our safety.

Economical risk factor :- When people don't have enough money and resources to meet their basic

needs, it can make them feel really unhappy. And when folks are feeling unhappy and desperate, they might end up doing things that are against the law or harmful to themselves and others. It's important for us to address poverty and work towards creating more opportunities for everyone to succeed. By providing support, education, and job opportunities, we can help break the cycle of poverty and create a better future for all.

Individual risk factor :- children who have mental retardation or chromosomal anomalies may find it challenging to control their impulses and behavior. This means that they might have difficulty managing their actions and emotions. It's important for us to provide them with the support and understanding they need to navigate their daily lives. By creating a supportive and inclusive environment, we can help them thrive and reach their full potential.

Other factor:- factors that can contribute to delinquent behavior in young people. Some of these factors include child labor, experiencing abuse during childhood, going through traumatic events, facing financial difficulties, lacking education, and dealing with mental health challenges. These circumstances can make it more challenging for young individuals to make positive choices and navigate life in a healthy way. It's crucial for us to address these issues and provide support, **resources, and opportunities for these young individuals to break free from these negative cycles.**

Juvenile delinquency occurs:

- when a minor violate a criminal statue.
- Different procedures takes place in camparison to adult offenders.
- All state has juvenile court and detention facilities.

Background

Apprentices act” of 1850

Previously “Apprentices act” of 1850 was the first law in England that helped kids in tough situations. It made sure they received training in different trades and industries. This way, they could learn valuable skills and have a better future. It's an important law that supported and empowered children in need. this law that was made to help children who are under 15 years old and have committed

minor offenses. Instead of punishing them, they can be placed in apprenticeships or training programs to learn and grow. It's a way to give them a chance to turn their lives around and become productive members of society. It's all about giving them a fresh start and helping them build a better future.

Reformatory school Act of 1897

The Reformatory school Act of 1897 was the first legislation in India which deal with the treatment of juvenile offenders. It was put in place to address the situation where children up to the age of 15 years who were sentenced to imprisonment would be sent to reformatory cells instead. These reformatory schools aimed to provide these children with a chance to reform and rehabilitate. It's all about giving them an opportunity to learn and grow, rather than just punishing them. It's another important law that recognizes the importance of helping young individuals turn their lives around. Individual and environmental programme involves the prevention of delinquency through concealing proper education

The Juvenile Justice Act, (1986)

Previously in 1986 India led the way in adapting its juvenile justice system to align with the principal in the outlined in the UN standard minimum rules. It became the first nation to make these modification, showcasing its dedication to adhering to global standard for juvenile justice. By prioritizing rehabilitation over punishment. India aim to provide young offender with the necessary care and support to lead meaningful lives. The goals of the juvenile justice system also include creating a standardized legal framework for handling cases involving young offenders. It aims to develop a unique strategy for preventing and controlling juvenile delinquency. The system focuses on establishing the necessary systems and structures to effectively carry out juvenile justice work. Furthermore, it sets norms and standards for the management of juvenile justice, fostering appropriate collaboration between the formal system and nonprofit organizations. Lastly, specific guidelines are put in place for the treatment and intervention of juvenile offenders.

Defined under the section 2 (h) of juvenile justice Act, 1986: "Juvenile": a child who has not completed age of 16 year of male and 18 year of female. The supreme court made landmark decision in the case of **Sheela Barse & Ors vs Union Of India & Ors on 13 August, 1986.**^[3]

In November 1985, UN member countries adopted the Standard Minimum Rules for the Administration of Juvenile Justice. In order to comply with these international standards, India took the step of repealing the Children Act of 1960 and introduced a new act called the Juvenile Justice Act of 1986. This change reflected India's commitment to aligning its juvenile justice system with global principles and ensuring the well-being and rehabilitation of young offenders.

Juvenile Justice (Care and Protection) Act, 2000.[4]

They decided to revoke the Juvenile Justice Act, 1986 and replace it with the Juvenile Justice (Care and Protection) Act, 2000. Under this new act, they set the age of juveniles at 18 years for both males and females. It was a way to ensure that young people are treated differently from adults in the justice system and provided with care and protection. It's all about recognizing the unique needs and circumstances of juveniles. The maximum punishment that can be given to a juvenile is three years. However, during this period, they won't be sent to a regular jail but to a reform home.

According to the Juvenile Justice (care and protection of children) Act, 2000 a **child** a person who not reached in majority. However, this law also adopted the principle of “**Doli incapax**” This principle means that a child is presumed to be incapable of committing a crime due to their immaturity and lack of understanding of the consequences. It's a way to ensure that the justice system takes into account the unique circumstances and developmental stage of juveniles.

The Juvenile Justice (Care and Protection) Act, 2000 defines children into two categories:-

The **first** category is called "child in conflict with law" and it falls under Section 13 of the Act. This refers to children who have committed an offense or are accused of committing one.

The second category is called "child in need of care and protection" and it is covered under Section 14 of the Act. This category includes children who are in vulnerable situations and require special care and protection, such as children who are abandoned, orphaned, or victims of abuse.

The Act recognizes the different needs of these two categories and aims to provide appropriate measures for their care and rehabilitation. It's all about ensuring that children receive the support and protection they need.

Relevance of IPC and CRPC in imparting Juvenile justice

According to **The Indian Penal Code Act, 1860**^[5] under the **section- 82**- Nothing is an offence which is done by a child under seven years of age. And **section 83** says that, Act of a child above seven and under twelve of immature understanding- Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

In the **Kakoo v. State of Himachal Pradesh, 1976** ^[6] case, the Supreme Court reduced the punishment for a 13-year-old boy who had committed a terrible crime. The court considered Sections 83 and 84 of the Indian Penal Code, which state that juveniles cannot be treated the same as adults. So, it's a well-established principle that when dealing with juveniles, the court should take a more reformatory and humanitarian approach. They focus on helping the young person change and grow. But In the **Heeralal v. State of Bihar** ^[7] case, a child threatened an adult and then tragically stabbed someone to death. The trial court believed that the child was mature enough to understand the serious consequences of his actions and sentenced him accordingly. The Supreme Court also dismissed the petition, which means they upheld the decision of the trial court. It's a difficult and sad situation when a child is involved in such a serious crime

According to **Section 27 of The Code Of Criminal Procedure, 1973**^[8]: Jurisdiction in the case of juveniles. Any offence not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of sixteen years, may be tried by the Court of a Chief Judicial Magistrate, or by any Court specially empowered under the Children Act, 1960 (60 of 1960), or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.

Another **Section 437 of The Code of Criminal Procedure** is indeed very important for juveniles. This section allows any child who is convicted of a crime to request or demand anticipatory bail. This means that if a juvenile is apprehensive about being arrested or detained, they can approach the High Court or the Court of Session to seek anticipatory bail. Anticipatory bail is a legal provision that can help protect the rights and interests of the juvenile during the legal process. It ensures that they have a fair chance to present their case and seek relief from arrest. It's all about providing a safeguard for

juveniles involved in criminal proceedings.

Juvenile Justice (Care and Protection) Act, 2015. [9]

juvenile between 16 to 18 years old commits a really brutal and serious crime, they may be tried in adult courts instead of the juvenile justice system. It's all about making sure that the seriousness of the crime is properly addressed. When a child is convicted of a crime, they now have to go through a preliminary evaluation for three months instead of just one month. Juvenile Justice (Care and Protection) Act, 2015 defines a juvenile or child as- any person below 18 years of age.

What was changed in the 2015 law?

A juvenile was involved in the **Nirbhaya gang rape case in Delhi**^[10] in December 2012, there was a juvenile involved. However, the Supreme Court decided not to give a harsher verdict for this heinous crime. They considered certain grounds and factors in their decision-making process. It was a highly debated and significant case that brought attention to the issue of juvenile involvement in serious crimes.

After the Nirbhaya gang rape case, there were demands for stricter punishments for heinous crimes. In response, the central government passed a new version of the law. This law specifically addresses cases involving children between the ages of 16 and 18 who commit serious offenses. It introduces special provisions to handle such situations. It's all about ensuring that appropriate measures are taken to address the gravity of these crimes.

The Juvenile Justice (Care and Protection) Act, 2000 indeed categorizes offenses committed by juveniles into three categories:

- **Heinous offenses:** Heinous offenses refer to severe crimes that have a significant impact on society. (minimum punishment of 7 year imprisonment under any existing law)
- **Serious offenses:** Serious offenses are less severe than heinous offenses but still carry a certain level of seriousness. (where imprisonment of 3 to 7 years).
- **Petty offenses:** Petty offenses, on the other hand, are less serious in nature and generally involve minor infractions. (maximum 3 year of imprisonment).

By categorizing offenses in this way, the law aims to ensure that appropriate measures are taken based on the severity of the offense committed by the juvenile. It's all about maintaining a fair and balanced approach to justice. When a juvenile between the ages of 16 to 18 commits a heinous crime, the Juvenile Justice Board conducts an inquiry to determine their mental and physical capacity to understand the nature of the crime and its consequences. This inquiry takes into account various factors, such as the juvenile's maturity level, their understanding of right and wrong, and their ability to comprehend the impact of their actions. Based on this inquiry, the Juvenile Justice Board decides whether to treat the juvenile as an adult or continue with the juvenile justice system. It's all about carefully evaluating the circumstances and ensuring a fair and appropriate approach to justice. The 2015 act provides for minors in the age group of 16 to 18, to be treated as adults by the law, in case of heinous crimes.

Conclusion

The minors Who commits crime may lead to affect their future and it became a cycle of crime that can't be handled. Sometimes it became big issue for a juvenile's family and society too. Juvenile Justice system ensure that the minor can relate and there will be less crime in future. It also provide proper care, education and counseling to improve in better way and become a useful resource to the society. It also provide a new way to start a new life in society.

Juvenile justice system ensure to impact on juveniles, physical and mental health and well being in their lives, So that there will be less crime and can get over all their past trauma and past bad memories to be in present centre. Make sure that they live their better life and Serve to the society.

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