

Juvenile Justice System in India: Pre and Post Nirbhaya Case

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Abstract : Incidents of serious offenses being committed by children are increasing day by day thereby becoming a matter of great concern. The involvement of a 17-year-old boy in the incident that took place on 16th December 2012 (most commonly known as 'Nirbhaya Case') wherein a 23-year-old girl was brutally gang-raped and thrown out of the moving bus, took the entire nation by shock. Previously, the legislation dealing with juvenile delinquency in India considered a child to be juvenile if he/she was below the age of 18 years. As a consequence, the accused who was just six months short of attaining the age of 18 years was convicted for only three years. The primary objective of the study is to understand the gravity as to why the need for distinguishing a child and juvenile arose in this time and to what extent legislations are successful in this regard. It initially explains the history and evolution of juvenile legislation in India and the provisions contained in the Indian Constitution. It then goes on to explain the causes of juvenile delinquency in India. Further, the study focuses on the latest trends that have developed in juvenile delinquency, explaining how the Nirbhaya Case led to the amendments made to the Juvenile Justice Act, 2010. Also, it focuses on the Child Rights and Child Protection and the stand taken by the National Human Rights Commission and the international community. An attempt has been made to settle the debate as to whether the juvenile justice system in India is reformatory or punitive. The need for amendment in the Juvenile Justice Act is also highlighted. The outcome of the study suggests that the legislation relating to juvenile delinquency have not been able to achieve the desired results. The age determination method in our system has been given paramount importance. The maximum punishment prescribed, even for heinous crimes, is only three years. Also, the reformatory style of punishment is not adequate and more emphasis should be laid on penalization. Finally, the author concludes that the legislation has failed at creating a deterrent effect. It is suggested to strengthen the role of government authorities and to sensitize people in this regard to increase community participation. A non-doctrinal and analytical approach has been adopted and secondary sources of data have been relied upon by the author for conducting the research for the study.

Keywords : child, delinquency, juvenile, Nirbhaya case

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