

## RECENT DEVELOPMENTS IN JUVENILE JUSTICE SYSTEM IN INDIA: AN ANALYSIS

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*As the strength of a building is dependent upon the foundation on which the building is standing, in the same way children are regarded as the very foundation of any country. The future of a country is solely dependent upon its children or younger generation. There may be certain reasons by which the children are inclined towards certain unlawful acts. As a result of which these children are termed as Juvenile delinquents. In India Juvenile justice system is primary system that basically deals with such youth who are caught and convicted in crimes. In this paper an attempt is made to analyse the position of juveniles and how justice is delivered to them through juvenile justice system in India. On the legal front the Juvenile Justice (Care and Protection of Children) Act, 2000 and subsequent amendments in 2006, 2010 and 2015 are there to deal with this issue. Moreover, an attempt is also made to give an overview about the whole process as to why there was the need of act and amendments in a society.*

### INTRODUCTION

The most interesting aspect of the Subject of juvenile Delinquency is that in every age it has been regarded as the problem peculiar to the contemporary society while the fact is that like adult criminal behavior it has always existed in some form or the other and there is no apparent reason to expect that it will not remain so in the future. This phenomena has a two dimensional basis. Firstly, the violation of any code of conduct, whether for adults or for young persons, is inevitable. Secondly, the definitions of juvenile delinquency as deviant child behavior itself depends upon the norms laid down society, in other words by the elders, and clash of values due to generation gap is bound to occur.[1]

Juvenile Delinquency is a gateway to adult crime, since a large percentage of criminal carriers have their roots in childhood. It is a problem that has been causing a serious concern all over the world. Even in developed countries the number of the case juvenile delinquency are increasing every year, notwithstanding the high standard living and availability of all kinds of necessities, amenities and luxurious of life besides compulsory universal education upto a fairly high age. In fact, the problem in developed countries is more complex and deep rooted than in developing countries.[2]

The Juvenile justice Act, 1986 also basically followed this approach though separate institutions, as in the case of children Act, were established for the delinquent children and neglected children. This act envisaged the

established of juvenile welfare boards, juvenile courts, observation homes, juvenile homes, special homes, special homes and after care homes. through the act also envisaged non-institutional treatment, lack of facilities and non-cooperation of the public in having foster care or sponsorship, institutionalized treatment was resorted to. And many of the state government miserably failed to implement the act in full swing.[3]

The juvenile justice (Care and protection) Act, 2000 has been enacted to consolidate and amend the law relating to juvenile in conflict and amend the law relating to juveniles in conflict with law and those in needs and adoption an attitude conducive to proper adjudication and disposition of matters is the best interest of children and for their rehabilitation.[4] It has also been decided that the age of the juvenile at the time of the commission of the act rather than at the time of presenting him in the court would be reckoned for applying the provisions of the act.[5]

It must be conceded that the over-flowing criminality of youth cannot be attributed to biophysical factors alone. There are other influences such as population explosion, Social, economic and political changes, pattern of education etc., which account for the growing incidences of juvenile delinquency, particularly, in developing and third world countries. The problem therefore, has assumed alarming dimensions in recent years.

### About the Amendments took place in Juvenile Justice Act 2000

There are the two amendments which took place in Juvenile Justice (Care and Protection of Children) Act 2000 which is

#### **(1) Juvenile Justice (Care And Protection of Children) Amendment Act, 2006**

The Juvenile Justice Act as Amended in 2006 has incorporated a new section in order to see that the various provisions of the law are implemented and established a proper coordination between the various governmental and non governmental agencies for proper implementation of the Law under the new law state government has to constitute a child protection unit in every district to ensure that the Law is implemented in its letter and spirit. The unit shall have to see that various homes are established and they are maintained properly. The notification of the authorities are issued and children are rehabilitated. 105

Some of major amendments that took place were

(a). Section 1(4) is added in which it is said that in any case of juvenile which involved detention, prosecution, penalty or sentence of imprisonment then this act shall apply when this act come in force. 41

(b). In Section 2 one definitions is added which is "adoption", one definition is changed which is "juvenile in conflict with law" is added, two definitions is expanded which is "child in need of care and protection" and "fit institution" and one Definition is omitted which is "Local authority". 48

(c). Section 12 (1) is expanded which is about bail of juvenile where it is said that juvenile is also placed under the supervision of a Probation Officer or under the care of any fit institution or fit person. 37

(d). Section 14(2) is added in which it is added that the pendency of cases of the Board shall review by the Chief Judicial Magistrate or the Chief Metropolitan Magistrate at every six months and shall direct the Board to increase the frequency of its sittings or may cause the constitution of additional Boards. 52

(e). Section 16(1) is expanded where it is said that no juvenile in conflict with law shall be imprisonment for any term which may extend to imprisonment for life.

(f). Section 34(3) is added where it is said children's homes whether it run by state government or by voluntary organization for children in need of care and protection shall, within a period of six months from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, be registered under this Act in such manner as may be prescribed.93

(g). Section 41 (2),(3),(4) is Changed where in sub section (2) said that Adoption shall be resorted to for the rehabilitation of the children who are orphan, abandoned or surrendered through such mechanism as may be prescribed, sub section (3) said that In keeping with the provisions of the various guidelines for adoption issued from time to time, by the State Government, or the Central Adoption Resource Agency and notified by the Central Government, children may be given in adoption by a court after satisfying itself regarding the investigations having been carried out, as are required for giving such children in adoption and in sub section (4) said that The State Government shall recognize one or more of its institutions or voluntary organizations in each district as specialized adoption agencies in such manner as may be prescribed for the placement of orphan, abandoned or surrendered children for adoption in accordance with the guidelines notified under sub-section (3).158

(h). Section 54 is replaced where Sentence is replaced from special home outside the State to any other children's home to special home within the State to any other children's home and where word local committee changed into committee. 39

( i). In Section 68 sub-section 3 is changed into sub-section 4 and new sub-section 3 is Every rule made by the Central Government under this act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in

two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.145

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(2) Juvenile Justice (Care And Protection of Children) Amendment Act, 2011

2011 amendment Act is very small as compare to 2006 amendment Act only two Amendments taken place

(a). Section 48(2) has been omitted from the Act.

(b). Section 58 is fully replaced the new section are

(1) Where it appears to the competent authority that any juvenile or child kept in a special

home or an observation home or a children's home or a shelter home or in an institution in pursuance of this Act, is a mentally ill person or addicted to alcohol or other drugs which lead to behavioural changes in a person, the competent authority may order his removal to a psychiatric hospital or psychiatric nursing home in accordance with the provisions of the Mental Health Act, 1987 (14 of 1987) or the rules made thereunder.

(2) In case the juvenile or child had been removed to a psychiatric hospital or psychiatric nursing home under sub-section (1), the competent authority may, on the basis of the advice given in

the certificate of discharge of the psychiatric hospital or psychiatric nursing home, order to remove such juvenile or child to an Integrated Rehabilitation Centre for Addicts or similar centres maintained by the State Government for mentally ill persons (including the persons addicted to any narcotic drug or psychotropic substance) and such removal shall be only for the period required for the inpatient treatment of such juvenile or child.

**Explanation.**—For the purposes of this sub-section,—

(a) "Integrated Rehabilitation Centre for Addicts" shall have the meaning assigned to it under the scheme called "Central Sector Scheme of Assistance for Prevention of Alcoholism and Substance (Drugs) Abuse and for Social Defence Services" made by the Government of India in the Ministry of Social Justice and Empowerment or any other corresponding scheme for the time being in force

(b) "mentally ill person" shall have the meaning assigned to it in clause (1) of section 2 of the Mental Health Act, 1987 (14 of 1987)

(c) "psychiatric hospital" or "psychiatric nursing home" shall have the meaning assigned to it

in clause (q) of section 2 of the Mental Health Act, 1987 (14 of 1987).

### **Juvenile justice (Care and protection of children) Act 2015**

Juvenile justice (Care and protection of children) Act 2015 has Replace the previous Act which is Juvenile justice (Care and protection of children) Act 2000. It was passed by Lok Sabha on 7 may 2015 and was passed by Rajya sabha on 22 December 2015 [6] and The following Act of Parliament received the assent of the President on the 31st December, 2015 .[7] The Act came into force from 15 January 2016.[8]

#### **Causes for the repeal of juvenile justice act**

The two main causes which result in repeal the juvenile Justice Act are

1. 2012 Delhi Gang Rape Incident - The Incident involved a rape and fatal assault that occurred on 16 December 2012 in Munirka, a neighbourhood in South Delhi. The incident took place when a 23-year-old female physiotherapy intern, Jyoti Singh was beaten, gang raped, and tortured in a private bus in which she was traveling with her friend, Awindra Pratap Pandey.[9] it was found that one of the accused was a few months away from being 18. So, he was tried in a juvenile court.[10] The incident generated widespread national and international coverage and was widely condemned, both in India and abroad Subsequently, public protests against the state and central government. The Subramanian Swamy, a BJP politician filed a Public Interest Litigation in the Supreme Court of India seeking that the boy be tried as an adult in a court. [11] but after some time supreme court allow juvenile court to give the verdict
2. J.S. Verma Committee Report – the committee has formed aftermath of 2012 Delhi Gang rape case to submit the report on Amendment to Criminal Law. They submitted the report on January 2013. The Committee is find out that there is a problem in juvenile justice act due to which main purpose of this act is not fulfilled. The two main Conclusion they made in the Report
  - (a) Juvenile homes in the country, i.e. child homes, and observation homes, are not being run in a manner consistent with the spirit of the Juvenile Justice Act. To ensure that the constitution of the Child Welfare Committee, Juvenile Justice Board, the infrastructural facilities in a home, the quality of food, the quality of counselling and psychotherapy required for a child to wipe out the scars of abuse and deprivation in early childhood and to mainstream him/her in society and to educate him/her fully requires a deeper and profound engagement of the State and civil society. This is the primary duty of the State, which is found wanting.

(b) they review the various material Due to which they reach the conclusion that the age of 'juveniles' ought not to be reduced to 16 years .

#### **Difference between Juvenile justice Act 2000 and Juvenile justice Act 2015**

1. Children's court is added to Juvenile justice act 2015 and its define in act as "Children's Court" means a court established under the Commissions for Protection of Child Rights Act, 2005 or a Special Court under the Protection of Children from Sexual Offences Act, 2012, wherever existing and where such courts have not been designated, the Court of Sessions having jurisdiction to try offences under the Act;
2. One of the main and biggest change that take place if case come up where child has done a heinous offence then the board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence . the Board may take the assistance of experienced psychologists or psycho-social workers or other experts if the board is satisfied that satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973 otherwise the Board pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences.
3. The powers of Children's court is also included which was
  - (a) there is a need for trial of the child as an adult as per the provisions of the Code of Criminal Procedure, 1973 and pass appropriate orders after trial subject to the 2 of 1974. provisions of this section and section 21, considering the special needs of the child, the tenets of fair trial and maintaining a child friendly atmosphere;
  - (b) there is no need for trial of the child as an adult and may conduct an inquiry as a Board and pass appropriate orders in accordance with the provisions of section 18.
  - (c) The Children's Court shall ensure that the final order, with regard to a child in conflict with law, shall include an individual care plan for the rehabilitation of child, including follow up by the probation officer or the District Child Protection Unit or a social worker.
  - (d) The Children's Court shall ensure that the child who is found to be in conflict with law is sent to a place of safety till he attains the age of twenty-one years and thereafter, the person shall be transferred to a jail
  - (e) The Children's Court shall ensure that there is a periodic follow up report every year by the probation officer or the District Child Protection Unit or a social

worker, as required, to evaluate the progress of the child in the place of safety and to ensure that there is no ill-treatment to the child in any form.

(f) The reports under sub-section (4) shall be forwarded to the Children's Court for record and follow up, as may be required.

4. In the whole Juvenile justice Act 2015 Child is used instead of juvenile for children .

5. The General Principle of Care and Protection of Children is included as chapter II in Juvenile Justice Act 2015 which will guide to The Central Government, the State Governments, the Board, and other agencies while implementing the provisions of this Act

6. Juvenile justice board has become the chapter III of Juvenile justice Act 2015 which include the following

(a) Exclusion of the juvenile justice board member

(b) the induction training and sensitization of all members including Principal Magistrate of the Board on care, protection, rehabilitation, legal provisions and justice for children, as may be prescribed, is provided within a period of sixty days from the date of appointment by state government

(c) When an inquiry has been initiated in respect of any child under this Act, and during the course of such inquiry, the child completes the age of eighteen years, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued by the Board and orders may be passed in respect of such person as if such person had continued to be a child.

(d) included function and responsibility of Juvenile Justice Board and also included the steps for fair and speedy inquiry

7. Child Welfare Committee has become the chapter V of Juvenile justice Act 2015 which also include functions and responsibilities of the committee

8. The whole new chapter 'ADOPTION' is added in Juvenile justice Act 2015 in which procedure of adoption , Eligibility of parents taking adoption , Procedure of taking Inter-country Adoption, Setting up State Adoption Resource Agency and Central Adoption Resource Authority, function of these authority and many more given about Adoption as compare to Juvenile Justice Act 2000

9. These Juvenile justice Act 2015 Also include Chapter of 'Other OFFENCES AGAINST CHILDREN' which tell about main offences which commit against Children and their punishment for the Offenses . Some of the main offences which are given in the act are

(a) Punishment for cruelty to child

(b) Employment of child for begging

(C) Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a child

(d) Using a child for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance

(e) Exploitation of a child employee

(f) Punitive measures for adoption without following prescribed procedures.

(g) Sale and procurement of children for any purpose

(i) Kidnapping and abduction of child

(j) Use of child by militant groups

### Conclusion

In these paper we study about law of Juvenile in india and how it Changed in last 15 years. The Society is changing from time to time and so does the technique of doing the Crime So we need to Amend and Repeal the law from time to time to catch up with Society otherwise crime rate of the Society increase drastically .

We see that there is so much changes and many new things come up in Juvenile justice (Care and protection of children) Act 2015 which is not there in previous Act we hope that this new Act become the Success in matter where previous Act Fail.

### References

- [1] (1946)46, No. 6, Journal of criminal Law , Criminology and Police station , at page 833-836
- [2] Criminology and criminal administration by J.P. Sirohi page 294-295
- [3] Lectures on Criminal procedure by K.N. Chandrasekharan pillai page 299
- [4] As regard the application of j.j. Act ,2000 read pratap singh v. state of Jharkhand ,(2005)3 SCC 551:2005 SCC(cri)752
- [5] Overruling Arnit das v. stae of bihar ,(2000) 5 SCC 488: 2000 SCC (Cri) 962
- [6] "Rajya Sabha passes Juvenile Justice Bill; Jyoti's parents welcome development". By The Indian Express. 22 December 2015. Retrieved 22 December 2015.
- [7] Page 1 of Juvenile justice (Care and protection of children) Act 2015 on The gazette of India.
- [8] Commencement notification come on the gazette of India REGD. NO. D. L.-33004/99
- [9] "Indians Outraged Over Rape on Moving Bus in New Delhi" By NIHARIKA MANDHANA and ANJANI TRIVEDI on the New York times
- [10] "16-Year-Olds to be Tried as Adults in Extreme Crimes, Says Lok Sabha" Reported by Sunil Prabhu on Ndtv
- [11] "SC agrees to examine plea to base juvenile culpability on mental age". By The Times of India.