

“An Analysis of Juvenile Justice System in India with Reference of Juvenile Justice Act 2015”

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Abstract

Juvenile are people between the age groups of 10-19 years. About one fifth of the population comprise adolescent individuals. Those are the back bone of a nation. National and International Organization always in process to protect the right and safeguard the interests of that age group children. In India majority of children in our country suffer many types of Maladjustment as Poverty, Hunger, Absence of health care, Lack of education and other facilities etc. It is estimated that around 170 million children are vulnerable or experiencing difficult circumstances due to their social, economic and geo political situation. All these children need care and protection. The Juvenile Justice (care and protection of children) Act 2015 is the main legal framework to protect the right of juvenile in India. The law provides special approach to Juvenile delinquent and neglected child.

I. INTRODUCTION

The children of the country are its future assets. They all need care, protection, and nurturing. Unfortunately, a sizable portion of them is being mistreated, abused, and tormented. They need the community's sympathy and assistance. Many more don't have a place to call home, a good education, or love. They are routinely abused and mistreated, which prevents them from growing up and developing. This group needs to be properly protected and cared for. Yet more of it is present. It can gratify the intense aspirations of parents wanting to adopt a child by turning to the adoption process. Society has a robust, practical, and kid-friendly policy to support the proper management of children falling into any one or more of these categories.

Recognition of the kid's proper role in society, a paradigm change from a need-based to a right-based approach, aspirational development, and mainstreaming of the child were all high points of progressive democracies in the previous century. Child-centered human rights philosophy becomes significantly important to the law's role in social engineering.

The root of the word "juvenile" is "juvenis" (Latin, young). In order to safeguard all children, the juvenile justice system takes both those who require protection and those who are involved in legal disputes into account. Nonetheless, it has come to be connected with and commonly used interchangeably with the term "delinquency," which conjures violent imagery and is used to describe children who are in legal trouble.

India's juvenile justice system, which is an outgrowth of the country's criminal justice system, has always been characterised by the tension between the protective approach of

the former and the conventional approach of the latter. Notwithstanding the protections offered by the Constitution and the number of legislation and civil rights that are specifically focused on protecting children, many Indian children nevertheless face severe discrimination and deprivation. The new penology, which was established after it was realised that juvenile criminals could hardly be expected to benefit from the courts, processes, and prisons designed for adult offenders, is what led to the concept of separate treatment for juvenile offenders. The earlier system involved sharing accommodations with other criminals, which exposed offenders to pollutants.

The child's impaired aptitude for legal thinking might be related to the works of philosophers like Locke. Since ancient times, he has been subject to a variety of moral norms and free from the demands of utilitarian principles.

II. INTERNATIONAL LAW FRAMEWORK

A. International Legal Frameworks for Juvenile Protection.

The international convention had raised awareness of child rights protection strategies among a variety of global stakeholders. The identification of national implementation plans was made easier by the four main concepts stated in paragraphs 2, 3, 6, and 12 of the Convention. Article 3 covers the best interests of the child, Article 2 deals with non-discrimination, and Article 6 emphasises the freedoms of life, growth, and development.

The Convention set up the framework for children's protection and urged parents and states to provide them with conditions for a decent upbringing and the creation of child-care

facilities. On the basis of humanitarian concerns, the States were also encouraged to offer acceptable alternative care to children without parents. A total of five human rights organisations, including the human rights committee, the committee on economic, social, and cultural rights, the committee on the elimination of racial discrimination, the committee on the abolition of discriminatory practises against women, and the committee against torture, were established to oversee how countries that have ratified or acceded to the treaties are carrying out their obligations under them.

The national governments have developed national policies, strategies, and programmes pertaining to the welfare and advancement of children while upholding the principles and practises of the UN Convention on the Protection of the Rights of the Child (1989). Even though they are not now part of government policy, concepts like ombudsmen or commissioners and ministers for children are pertinent since they might improve children's rights. The limited legal ability of children in relation to diverse acts is recognised by many national legal systems. The legal status of children is governed by the codes or laws that the states have approved. Practically, the states have a large number of common futures that mirror the CRC's provisions (1989)

B. INDIAN SCENARIO.

Children have various rights under the Indian Constitution as citizens of the nation. The majority of the privileges of child embodied as per international convention and the Directive Principles of State Policy are effectively covered by the Constitution. Sadly, in the current context, the Directive Principles of State Policy do not justify any rights. To protect children's rights in India, the government is free to implement the necessary legal and administrative measures. Nonetheless, because of these guidelines, the judiciary has been able to issue several important rulings that support the privilege of children.

The following are some of the particular constitutional provisions regarding India's protection of children:

- Article 14 guarantees equality before the law for all citizens, including minors; Article 15 promotes the rule of law for all persons and protects the right against discrimination; Article 24 prohibits the employment of children under the age of 14 for any hazardous jobs.

The protection of minorities' interests is guaranteed by Article 29.

- Article 37 ensures that the government will implement the necessary legislative and administrative measures to safeguard children's rights.

- Young children should not be abused and should not be forced into activities that are inappropriate for their age or physical capabilities, according to Directive Principles of State Policy Article 39(e).

- Article 39(f) of the Directive Principles of State Policy states that children must be protected from exploitation and moral and material abandonment, as well as given the chance and required ways to develop in a smooth way, in settings of fundamental rights.

- Article 45 of the Directive Principles of State Policy states that all children have a right to free and compulsory education until the age of 14, and Article 46 states that disadvantaged sectors of the population have a right to protection against unjust and violation of natural justice .

The right to enough nourishment, a reasonable standard, and improved public health are guaranteed by Article 47.

III. GOVERNMENT POLICY AND LAWS

In order to safeguard children's interests both before and after independence, the Indian government has passed a number of laws. Among these are the Reformatory Schools Act of 1897.

- The 1929 Child Marriage Restriction Act
- The 1933 Children (Pledging of Labour) Act

Children Act of 1960; Young People (Harmful Publications) Act of 1956; and National Policy for Children of 1974

Baby milk substitutes, feeding bottles, and infant foods (Regulation of Manufacturing, Supply, and Distribution) Act, 1992; Child Labor (Prohibition and Regulation) Act, 1986;

- The 1993 National Nutrition Policy

Baby milk substitutes, feeding bottles, and infant foods (Regulation of Production, Supply, and Distribution) Amendment Act, 2003; Juvenile Justice (Care & Protection of Children) Act, 2000; National Policy for the Empowerment of Women, 2001;

- NCPC 2005
- JJ (Care & Protection of Children) Amendment Act, 2006
- Prohibition of Child Marriage Act, 2006
- PCSO Act, 2012
- NPC 2013
- National Early Childhood Care and Education Policy 2013
- National Education Policy 2020 Juvenile Justice Enactment

In order to fulfil its pledge, the Government of India has abolished the age distinction between juveniles who are male and female. The JJA Act, 1986 was repealed by the 2000 Act. Currently, the age at which boys and girls may engage in legal conflict with a minor has been set at 18. According to data from the National Crime Record Bureau (N.C.R.B.), there has been an

increase in juvenile offenders, particularly those between the ages of 16 and 18. One of the attackers in Delhi in 2012 was attempted as a juvenile and was a few months away from becoming 18 at the time. He was delivered in December 2015 after spending some time being transported away from Reformation Home.

This increased popular support for shortening the time that minors were subject to the Act. The provisions of this new legislation are primarily distinguished for the part of a much-debated alteration in the definition of a kid in the context of legal conflict and making grouping contingent on age and understanding of the violation. This would undoubtedly be doing the administrators and authors of this great law relating to kid government support wrong.

In keeping with this, the Act of 2015 has been passed. Legislation pertaining to juvenile courts and youngsters in legal trouble has been largely influenced by academic and political discussions. The passage of the "JJ Act" in 1986, which led to significant reforms in a number of areas, might be considered as a turning point in the development of policy thought. The UN Rules on Juveniles Protection Deprived of Liberty of 1990 and the UN Standard Minimum Rules for Juvenile Justice Administration of 1985 both required to be amended by the turn of the twenty-first century with a specific criterion in mind. The JJ(Care and Protection) Act of 2000 is the product of the subsequent legislation work, and the Model Rules of the J J Act of 2000 are replaced by the Model Rules of the 2007 Act.

One of the 2012 Delhi gangrape and murder suspects was an adolescent who received a three-year sentence and was subsequently transported to a custody facility in accordance with the provisions of the "Juvenile Justice Act of 2000."The Delhi HC upheld its ruling in December 2015 pursuant to the Act's rules and declined to extend the conviction of the guilty in light of the Supreme Court's ruling upholding the Act's constitutional validity. As a result, there was a widespread sense of injustice and the public protested in support of the victim's family. The Juvenile Justice (Children Care and Protection) Bill was introduced in 2014 after the Assembly on December 22, 2015, adopted a position by pointing out several defects from various parts for addressing the purported gaps in the prior statute. The Act of 2015 on juvenile justice was approved by the President on December 31, 2015, and it took effect on January 15, 2016.

IV. THE JJ ACT'S IMPLEMENTATION: THE WAY AHEAD

Despite the creation of detailed plans for the benefit of children, implementation is subpar. There are major accountability concerns, a lack of adequate training, disagreements over setting bail for offenders, and widespread apathy. There have been unheard-of cases of police abuse and harassment at the observation houses, in addition to the ineptitude and tardiness of probation officials. It has been made to assure enforcement by creating an Integrated Child Protection

Plan and the Model Regulations 2007 as an amendment to the Act. A ray of hope is provided by the Protection of Children from Sexual Offenses Law of 2011, which goes beyond simply trying to end the sexual abuse of our children. but also, to regulate the media by banning comments made about kids who are either the accuser or the victim of a crime and might harm their reputations or invade their privacy. More than ever, social workers must act as a person of friendship, counsel, reform, and healing. NGOs must also step forward to take care of youngsters during an inquiry or after it is done.

V. MECHANISM OF JUVENILE PROTECTION UNDER J J ACT 2015:

A. Observation Homes.

The Juvenile Justice Act requires the State Government to establish and maintain Observation Houses in each district or group of districts, either on its own or through nonprofit or volunteer groups. Age-based segregation and different OHs for boys and girls are used, with consideration for the offender's physical and mental health and the gravity of the offence committed

The JJMR 2016 requires the Child Welfare and Protection Officer (CWPO) to hold the child in an OH or another appropriate facility and present the child before the JJB within 24 hours of arrest if the JUVENILE JUSTICE BOARD or a single member cannot be reached due to odd hours or distance. If bail is rejected, the child could be kept in an OH if bail is rejected..

B. Special Homes.

The JJ Act states that a Special Home is an institution tasked with housing and providing rehabilitative services to children who have been charged with a crime and ordered to go there by the JJB or the Children's Court. The State Government must independently establish and operate Special Homes in each district or set of districts, as well as through non-profit or volunteer groups (NGOs). The residents of Special Homes should be separated into groups according to the type of offences they committed and their physical and mental health.

C. Secure Place.

A "Place of Safety" is a child-care facility for children who have been suspected of breaking the law or have been found to have done so. It cannot be a police station or a jail, and can be built independently or as a component of an observation home or special home. If the JJB or Children's Court makes an order, the person in charge of the sheltered should be prepared to welcome the kid. Those who have been found guilty can be housed in a secure location while their case is looked into and while they are receiving rehabilitation. The JJ Act requires that

minors between the ages of 16 and 18 who are being investigated for committing a serious crime, those over 18 who are accused of committing a crime while under 18 while the investigation is ongoing, those over 18 who are discovered to have been involved in a crime after the investigation is finished, and juveniles between the ages of 16 and 18 who were discovered to have been involved in a horrific crime must be kept in protective custody. Model Rule 85 (iv) mandates that the District Child Protection Units conduct an annual review of the child placed in a safe environment and submit the results to the Children's Court. It is unclear whether to institutionalise a person or child who has turned 18 at the time of their arrest or throughout the course of the inquiry. If a Place of Safety and Special Home is not constructed in the district where the child's family resides or in the district where the relevant JJB/Court Children's has jurisdiction over the child's case, a lawyer may submit a video-conferencing application in such circumstances. The Supreme Court Committee and Juvenile Justice might also be alerted to

D. Fit Facility.

The JJ Act permits the short-term or temporary placement of kids in "Fit Facilities". These facilities are run with the direction of government the or by a NGO or non-profit organisation and are ready to care for a kid temporarily for a specified reason. The JJB or the Child Welfare Committee may approve the temporary custody of a child for a particular reason at a facility maintained by a government agency, a non-profit, or an NGO that is registered in accordance with any applicable law. Fit Facilities are only intended to care for the kid temporarily, unlike a residential home, which aims to offer long-term care. Examples include assigning a kid with a drug abuse issue to a de-addiction facility if the facility is judged appropriate for the child.

The JJB has the power to order the supervision of a child by a probation officer for a term of three years and to place them in an appropriate institution. The CWC may make orders for the kid to be placed in safe care in an appropriate facility until they can be placed in a home or restored to their guardians or parents. Model Rule 11(8) states that when a child is put in a fitness facility, the JJB should take into account the fitness facility or special home closest to the child's parent or guardian's residence. Every facility that wants to be known as a fit facility must adhere to the following standards: Offer basic services to any kid placed with it, comply with the minimum requirements for child care and protection, prevent any sort of abuse, neglect, or cruelty towards any child who has been entrusted in its care, and comply with the Board's or Committee's directives.

E. Sponsorship Programme.

The State Government may create regulations to enable the implementation of different programmes for the financing of children, such as individual, team, or community sponsorship. The sponsorship requirements include that the mother must be a widow, divorcee, or family deserter, that the parents suffer from a fatal disease, that the children are left orphaned and live with the extended relatives, and that the parents are unable to care for the kids. The Sponsorship Program is an extra non-institutional strategy that helps families, children's homes, and special homes address children's medical, nutritional, educational, and other requirements. There are many different kinds of sponsorship programmes available for kids, including community, group, and individual-to-individual programmes.

F. Adoption.

Adoption: Meaning of adoption

The legal practise of legally placing a child with a family member other than its biological parents is known as adoption. It is a multinational organisation that appears in practically every religion and work of mythology. A kid can be legally taken from his natural father and chosen by a new family through the adoption process, obtaining all of the privileges, privileges, and duties associated with being a bio father. Adoption is described as the process by which a kid is legally taken from his birth parents and chosen by a new family, receiving every one of the privileges, advantages, and duties associated with having a biological child, under The JJ Act 2015..

VI. THE PROVISION'S EFFECTIVENESS

The Hindu Laws facilitated the adoption of Hindu children by a person adhering to the Hindu community. Prior to the JJAct of 2000 was most recently updated in 2015. The Adoption Coordination Agency (ACA) is where prospective parents may submit an application. The Adoption Coordination Agency arranges a comprehensive evaluation of the family, including pre-adoptive counselling that is valid for a period of three years.

Once a suitable child has been chosen, the agencies can set up a meeting between the child and prospective parents. The Specialised Adoption Agency/Child Care Institution and the prospective parents simultaneously file an application with the District Court within ten working days after matching. The Juvenile Justice Act's Section 61(2) mandates that all proceedings be handled in secret and finished within 2 months after filing. However, there is a huge number of pending adoption cases in India's Civil Judicial branch that have been open for longer than the time limit specified in section

The CWC is no longer the "ultimate authority" in situations involving children who require care and protection. Anybody connected to the child may bring a petition before the district magistrate, who will examine it and give the necessary orders. India has a reduced adoption rate, so the district child protection officer should send these kids to a child care facility (CCF) and if their parents can't be found, they should be given up for adoption. District level police are working without accountability, as they don't take their duties seriously enough and the administration doesn't care.

India's National Commission for Protection of Child Rights (NCPCR) reported that 5,850 CCIs have been registered, yet only 8,000 active institutions are allowed to partner with adoption agencies. This is due to India's lengthy adoption procedures, which can take up to three years to complete. There are some issues that have an impact on the adoption process, such as a lack of resources and a lack of awareness of child rights.

1. The most important details in this text are the issues faced by children who have gone through a crisis, limited adoption, and inadequate child care. The Supreme Court of India established a few rules governing the conditions for international adoption in this important judgement, which was started as a result of a letter sent to the court by lawyer Laxmikant Pandey, who claimed that volunteer and social groups involved in the business of selling Indian children to foreign parents were engaging in misconduct. Every kid has the right to grow up in a family environment, in an atmosphere of happiness, love, and understanding, according to the National Strategy for Kids, which was enacted in 2013. Unless it is in the child's best interests, parents and children shouldn't be split up.
2. In India, members of the family group take care of children who are orphaned, abandoned, or whose relatives can't care for them..
3. If a relative is unable or unwilling to care for the kid, the child is given to a willing family with whom they have a similar cultural, tribal, and/or communal tie. While such care is ingrained in our social ethos, this arrangement does not need to be institutionalised. If such informal kinship care necessitates financial support, the CWC can look it as part of the sponsorship programme as specified under the ICPS.

What is Foster Care?

Foster care refers to a scenario when a kid temporarily resides with unrelated family members. When putting a child in foster care, priority will be given to parents with matching ethnic, regional, and/or community links. Depending on the needs of the kid, foster care may be provided either temporarily or permanently. In a setting that resembles a family, a group of unrelated youngsters are put with two parents who may or may not already have their own genetic offspring. Children taken from the streets are occasionally placed in group foster care before being placed in private foster care. Children are kept in communal foster care while they are weaning..

VII. AUTHORITY RESPONSIBLE FOR THE JUVENILE CARE AND JUVENILE JUSTICE SYSTEM IN INDIA

A. Role of Child Welfare Committee.

By completing an official inquiry and presenting a report to DCPU and CWC officers, and NGO the CWC is in charge of defending the rights of children. In order to find the parents of kids who have been lost or misplaced and return them to them, it also collaborates with the institutions that provide their care and security, such as the cops, NGO and other organisations.

These organisations defend the rights of children and provide them with a safe environment for their wellness. Children who are in legal trouble need special attention and care, and the JJB ensures that their rights are upheld throughout the proceedings.

CWC are designed to protect kids who need to be cared for and protected as well as to carry out protecting kids and their numerous rights is the responsibility of the JJB and CWC.

A Judicial Court official of First Class or Metropolitan Magistrate, two social workers with at least seven years of experience working with children in health, education, or welfare programmes, or a practising expert with a degree in developmental psychology, psychiatry, sociology, or law make up the Juvenile Justice Board.

The board will make sure that the child and their family or legal guardians are kept informed about this. process will guarantee that the children's rights are upheld during the whole investigation, arrest, and rehabilitation processes. A skilled interpreter or translator should be made accessible to the kid, legal help should be made available to the youngster through numerous legal services organisations, and a special care committee should be included..

Judicial Court official of The first Class or City Magistrate, known as Principal Magistrate on JJB, and two social workers who have experience and have been currently participating in the health care, education, or social assistance activities for children for at a minimum seven years, or a practising professional who has a degree in childhood development, psychiatry, sociology, or law, are the Juvenile Justice Board's main persons. When it comes to the legal conflict involving children, JJB is the "competent authority." The statute accords the magistrate and social workers equal priority; together, they form the appropriate authority to handle juvenile matters.

The juvenile court panel handles matters involving kids who have run afoul of the law in any district. The Juvenile Court Board has a number of duties.

The Board will guarantee that the kid and any parents or guardians are fully informed about the procedure.

i. Ensure that children's rights are upheld throughout the whole investigation, arrest, and rehabilitation process.

ii. Assure that the kid has access to legal help through a variety of legal services organisations.

iii. Assume the youngster is unable to follow the proceedings because of linguistic barriers. The board will then assign the youngster an experienced interpreter or translator.

iv The Board should, in the disposition of the issue or in the issuing of the final order, include an individual care plan for the rehabilitation of the child.

Every month, the Board will review the residential facilities used to house children who have broken the law, and it will make recommendations to the DCPU and the State to raise the standard of these residences..

VIII. ROLE OF SPECIAL JUVENILE POLICE UNIT

The SJPU is a group of police officers tasked with handling only situations involving children and the law and children in need of care and protection. They must be established in every district, led by a police officer with the minimum rank of Deputy Superintendent or higher, and composed of two social workers with prior expertise in this sector. If a family directly requests foster care for a child from the CWC, the Committee will request that the DCPU conduct a child study and a home study, review the proposed care taker family's HSR before designating them as "fit individuals", review the child's Individual Care Plan, the

parents' consent where necessary, and SFCAC approvals in cases where the DCPU has requested financial support, and consult the child to take his/her consent.

When a minor is old enough to comprehend, CWC may also inquire with the child for permission before accepting it. The Child Welfare Committee emphasises that in order to get support for the kid through foster homes, you must complete the formalities of the JJ Act and send it to the concerned authority.

IX. CONCLUSION

Before concluding, it is crucial to go through a few hypotheses that might shed light on the reasons for young people's illegal behaviour. Two of the most well-liked theories are the psychological model and the social learning. Psychodynamic Heor, which was first put forth by Sigmund Freud in 182, states that an infant is born with Id (animal instinct), and that Self-esteem is the sudden realisation of the real world and aids in controlling Id. Superego is created through, and also because superego cannot restrain the animal drive, the child develops criminal behaviour. A young person may turn to crime for a number of reasons. is maybe on the other side of managing the immature youngster. Academics agree that giving the juvenile social power in any of these situations is illegal and is not a long-term fix. Given these factors, the author is of the opinion that the government should re-examine and recommend kid-friendly amendments to the new Juvenile Justice Act, 2015 in order to stop injustice in the Juvenile Justice Act.

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