



A Summary of the Juvenile Justice (Care and Protection) Act of 2015

By Dr.V.Reeta, Assistant Professor, Department of Agriculture, Chandigarh School of Business, Jhanjeri, Mohali

Sumati Choubey, B.Sc. Agriculture, Department of Agriculture, Chandigarh School of Business, Jhanjeri, Mohali

Abstract

The Juvenile Justice (Care and Protection of Children) Act 2015 was enacted by the Indian Parliament after heated debates, protracted street protests, and opposition from child rights organizations and certain lawmakers. An outline of the circumstances and procedures leading to the passage of this Act is provided in this legislative note. It discusses the Act's beneficial provisions, including the addition of new definitions such as orphaned, abandoned, and surrendered children, setting deadlines for Juvenile Justice Board inquiries, streamlining adoption procedures, adding new offences committed against children, and requiring child care institutions to register. The contentious practice of "transferring" juveniles between the ages of 16 and 18 who have been charged with the adult criminal justice system, these offences are "heinous." It makes suggestions for improving the law's application and reform.

Keywords

Juvenile, Justice, Heinous, Protection, Conflict, Offences, Dominant masculinity

Introduction

The adoption of a child becomes permanent upon the issuing of an adoption order by the civil court, according to the Juvenile Justice (Care and Protection of Children) Act, 2015. According to the Bill, district magistrates (including extra district magistrates) rather than courts will issue such adoption orders.

According to the 2015 Act, juvenile offences are divided into three categories: heinous offences, serious offences, and petty offences. Serious offences include those that carry a three- to seven-year prison sentence. According to the Bill, major offences will also include those for which the maximum sentence is more than seven years in prison and the minimum sentence is either not specified or is less than seven years.

Additionally, it has been discovered in recent years that the crimes committed Early life experiences, dominant masculinity, upbringing, economic difficulties, illiteracy, etc. are the general preference or psychology underlying crime or the causes of crime. The use of kids between the ages of 6 and 10 as tools for committing crimes or other illicit actions is shameful nowadays. Kids can be lured at a low cost because their thoughts have an innocent and manipulative quality.

The terrifying "Nirbhaya Delhi Gang Rape Case" incident, which occurred on December 16, 2012, shook the entire country and sparked several discussions among the legal community and socialists. The involvement of the accused, who was just six months

away from reaching the required age, was the primary topic of discussion and debate. The Introduction of the Act has replaced the existing juvenile laws and has introduced some remarkable changes. One of the remarkable changes is juvenile under the age group of 16 to 18 years should be tried as an adult.

Definition of Child and Juvenile under the Juvenile Justice Act, 2015 and other various laws

A person who has not reached the age of 18 and is not mature enough to discern what is right and wrong is generally referred to as a "child." In the modern period, the majority of nations have accepted the concept of "doli incapex," which refers to understanding that the conduct being committed is illegal. The penal code further specifies that only children between the ages of seven and twelve can be found guilty, provided that the crime they committed was severe and that they knew or had acquired the necessary understanding to grasp the repercussions of their actions.

A "child" is defined as a person who has not reached the age of 18 in sub-section 12 of Section 2 of The Juvenile (Care and Protection) Act, 2015.

“*Child in conflict with law*”, and

“*Child in need of care and protection*”.

The child who has committed an offence and he or she is under the age of 18 years on the date of commission of the offence is basically called as “child in conflict with law”. The second sub – category is “child in need of care and protection” means a child as defined under Section 14 of the Act.

Children Act, 1960: Section 2(e) of the Act states “child” means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years.

United Nations Convention: The UN Convention on the Rights of Child, 1989 defines that “child” means a human being below the age of eighteen years unless the law declaration applicable to child, majority is attained earlier.

Difference between Juvenile and Child

A minor is someone who is under the legal age of eighteen years old or someone who is under the age of full legal obligation and responsibility. A juvenile is someone who is between the ages of sixteen and eighteen, but a kid accused of a crime is not prosecuted as an adult and is instead transferred to the Child Care Center. A young person suspected of committing a crime is considered a juvenile offender and is tried in adult court.

Although both terms have the same meaning in a generic sense, there is a distinction in the context of their legal significance. Minor denotes children and teenagers, whereas juvenile denotes either immature people or juvenile offenders.

History of Juvenile Justice System in India

The Juvenile Justice, 1986 which repealed the earlier **Children Act, 1960**, aimed at giving effect to the guidelines contained in the Standard Minimum Rules for the Administration of Juvenile Justice adopted by the U.N. countries in November 1985.[12] The above mentioned Act consisted of 63 Sections, 7 Chapters and is extended to whole India except to the State of Jammu and Kashmir. The primary purpose of the Act was to provide care and protection, treatment, development and rehabilitation of the neglected juvenile delinquent.

The main objectives of the Act were:

1. The act basically laid down uniform framework for the juvenile justice in country in such a way that it protects the right and interest of juvenile.

2. It talks about the machinery and infra – structure for the care, protection treatment, development and rehabilitation of the juvenile offenders.
3. It set out the basic provisions for the proper and fair administration of criminal justice in case of heinous crime done by juvenile offenders.

Juvenile Justice Act, 2000

The Act was enacted in year 2000 with aim and intent to provide protection for children. The mentioned was amended twice – first in the year of 2006 and later in year of 2011 .The amendment was made to address the gap and loopholes in the implementation.

Further, the increasing number of cases of juvenile crimes in the last recent years and frightful incident of “Delhi Gang Rape Case” has forced the law makers to come up with the law. The major drawback of the Act was that it contains ill equipped legal provisions and malfunctioning juvenile system was also the major reason in preventing the juvenile crimes in India. The act was replaced soon by The Juvenile Justice (Care and Protection) Act, 2015.

Juvenile Justice Act, 2015

The Juvenile Justice act of 2015 replaced the Juvenile Justice act of 2000 because there existed a need for a more robust and effective justice system that focused on deterrent as well as reformative approaches. The approach towards Juveniles should be different from that of adults, there were contentions made in the Parliament that the Juveniles should be given more space for transformation or reformation or improvement and that is only possible when there’s a special justice system. Thus, the new act i.e. the Juvenile Justice (care and protection of children) Act, 2015 focused on a Juvenile friendly approach of adjudication and disposition of matters.

Some of the salient features are as follows:

- Section 2 (12) of the Juvenile Justice (care and protection of children) Act, 2015 gives the definition of the Child, meaning thereby that a child is a person who hasn’t completed the age of 18 i.e. he/she is below 18. The Act has given a classification regarding the term ‘Child’ namely “Child in need of care and protection” and Section 2 (13) of the Juvenile Justice (care and protection of children) Act, 2015 that talks about “Child in conflict with law”.
- There was a clear distinction made regarding the facets of offences, meaning thereby that categories were made terming the offences as heinous, serious and petty. There have been specifications made regarding the Juveniles who are between the age of 16-18, if any kind of crime is committed by them then after due perusal of their mental capacity, they can be tried as an adult.
- Introduction of Juvenile courts, meaning thereby that special courts were to be established that will be trying the Juvenile offences only, like that of the NDPS courts, courts dealing with POCSO, etc.
- With the coming of the 2015 Act, the scope of the definition of ‘Child in need of care & protection’ was enhanced to another level by considering the following points from the many mentioned in Section 2 (14) of the Juvenile Justice (care and protection of children) Act, 2015:
 1. Those whose guardians or parents are/ were unfit or uninterested in taking care of the child.
 2. Those who are/ were found performing works that are in contravention to the labor laws.
 3. Ones who have the imminent threat of marriage before attaining the specified lawful age.
 4. The meaning of adoption has also been specified in the Act through which the rights an adopted child stands recognized.

The aims to consolidate the laws relating to children alleged and found to be in conflict with law and children in need of care and protection by catering and considering their basic needs through proper care & protection, development, treatment, social- integration, by adopting a child friendly approach in the adjudication and disposal of matters in the best interest of children. The act also focuses on rehabilitation of juvenile offenders through various child care houses and institutions.

Special Procedure of Juvenile Justice Board:

The Act has provided the procedure against the juvenile offender. Following are the main special procedure –

1. The proceedings cannot be initiated on a complaint registered by the police or citizen
2. The hearing must be informal and should be strictly confidential.
3. The offenders should be kept under Observation Home after detention.
4. The trial of juvenile in conflict with law shall be conducted by lady Magistrate.
5. A child in conflict with law may be produced before an individual member of the Board , when Board is not sitting.

Causes of Juvenile Delinquency

1. **Adolescence Instability-** The biological, psychological and sociological are one of the important factors in the behavior pattern of adolescent. At this stage, teenagers become more conscious about their appearances and fashions, enjoyment, food, play and etc. And at this age, they want freedom and they wanted to be independent but sometimes they are given any chances and oppourtunities by their parents, teachers and elders this leads to development of anti – social behavior in them. Thus, this anti – social behavior, biological changes, psychological causes are some of the reasons which are responsible for juvenile delinquency.
2. **Disintegration of Family System-** Disintegration of family system and laxity in parental control is also the main cause of increasing rates of juvenile delinquency. In normal cases divorce of parents, lack of parental control, lack of love and affections are the major factors of juvenile delinquency.
3. **Economic condition and Poverty-** Poverty and poor economic condition is also considered has major contributing factor of increasing juvenile crimes as result of poverty, parents or guardian fails to fulfill the needs of the child and at the same time children wants that their desires should be fulfilled by parents by hook or by cook and when their desires are met they start themselves indulging in stealing money from homes or any other parents. And this develop habitual tendency of stealing which results into theft at large scale.
4. **Migration-** Migration of deserted and destitute juveniles' boys to slums areas brings them in contact with some anti – social elements of society that carries some illegal activities like prostitution, smuggling of drugs or narcotics etc. These sorts of activities attract the juvenile a lot and they may involve themselves in such activities.
5. **Sex Indulgence-** The children those who have experienced sex assault or any other kind of unwanted physical assault in their early childhood may develop any kind of repulsiveness in their behavior and mind. In this age they may become more vagrants or may want to have sex experience. Too much of sex variance may lead the boys towards the crime of kidnapping and rapes etc.
6. **Modern Life Style-** The rapidly changing society patterns and modern living style, makes it very difficult for children and adolescents to adjust themselves to the new ways of lifestyle. They are confronted with problems of culture conflicts and are unable to differentiate between right and wrong.

Role does the Police play

The Police in the Juvenile Justice System are known to be the gatekeepers, meaning that they are the ones who have the power to make initial decisions regarding how the case would be handled. The gatekeepers enjoy a huge amount

of discretion, as a result, only a few cases come up from the plethora of acts committed and this is again a great matter of ignominy.

If a piece of information is received by the Police officer, then it is a provision that they should be kept in special homes and not lockups or jail, the matter is to be dealt with by a child welfare officer, who'll be reporting things to the Juvenile Justice board. In some of the cases, it is also observed that the Police officer may on prima facie facts & circumstances grant bail to the Juvenile.

The main reason for the appointment of a child welfare officer is because many of the research works have shown that the interaction between the Police and the young people are often characterized by high levels of fear, domination, mistrust, dissatisfaction, etc. Police on the other hand sometimes behave in a hectoring and stubborn way, which then results in the establishment of negative perceptions.

Conclusion

The increasing rates of juvenile crime in India in very concerning issue and need to be focused upon. Although government has laid various legislation and rules to stop the incidents of juvenile crimes but the present laws on juveniles is not creating a deterrent effect on the juveniles and thus the results are not fruitful and legislative intent is not accomplishing.

References

- [1] 1998 SCC, Del 879 : (1999) 77 DLT 181
- [2] Section 82 of IPC states that a child below the age of seven years is doli incapax
- [3] Section 13 of The Juvenile Justice (Care and Protection of Children) Act,2015
- [4] Section 14 of The Juvenile Justice (Care and Protection of Children) Act,2015
- [5] Bare Act , The Children Act , 1960 , Universal Publication , 12th Edition
- [6] Article 1 of the UN Convention on the Rights of Child, 1989.
- [7] Prof. N.V. Paranjape , Criminology , Penology with Victimology, page no 662 ,Central Law Publications, 17th edition,2017.
- [8] http://shodhganga.inflibnet.ac.in/bitstream/10603/37610/9/09_chapter%203.pdf
- [9] A person under fourteen years of age.
- [10] A person between the age group of fourteen and seventeen year.
- [11] Section 77 of the Act.
- [12] Prof. N.V. Paranjape , Criminology , Penology with Victimology, page no 673 ,Central Law Publications, 17th edition,2017.
- [13] Section 2 (13) of the Juvenile Justice (Care and Protection) Act , 2015
- [14] Section 47 of the Juvenile Justice (Care and Protection) Act , 2015
- [15] Section 48 of the Juvenile Justice (Care and Protection) Act , 2015
- [16] AIR 2014 SC 2726

- [17] 1997 i0 SCC 525
- [18] AIR 2005 SC 3549
- [19] AIR 1989
- [20] AIR 2000 SC 748
- [21] Section 4 of Juvenile Justice(Care and Protection) Act , 2015.
- [22] Section 4(2) of Juvenile Justice(Care and Protection) Act , 2015.
- [23] Section 5 of Juvenile Justice(Care and Protection) Act , 2015
- [24] Section 7(2) Of the Juvenile Justice(Care and Protection) Act, 2015
- [25] Dr. S.S. Srivastava, page no 319, Central Law Agency, 3rd Edition, 2007.
- [26] Prof. N.V. Paranjape, Criminology, Penology with Victimology, page no 665, Central Law Publications, 17th edition , 2017.
- <https://www.latestlaws.com/articles/overview-of-juvenile-justice-law-in-india-by-chhaya-khosla/#:~:text=The%20Juvenile%20Justice%20System%20in,Minimum%20Rules%20for%20Administrati on%20of>
 - <https://blog.ipleaders.in/juvenile-justice-system-india/>
 - Vedkumari, The Juvenile Justice in India: from welfare to rights, New Delhi: OUP. p1
 - <http://www.lawyersclubindia.com/articles/Rehabilitaion-of-Juvenile-Offenders-Steps-Implementations-5606.asp>
 - <https://www.syndicatepost.com/empowerment/causes-effects-of-peer-pressure>
 - <http://www.legalservicesindia.com/article/1031/Juvenile-Justice-System-&-its-Delinquency-in-India.html>
 - <https://thelawbrigade.com/criminal-law/juvenile-justice-in-india/>