
A STUDY ON THE JUVENIL JUSTICE ACT,2000 AND ITS VARIOUS PROSPECTS

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ABSTRACT

The Juvenile Justice Act, 2000 has been made in order to protect the human rights of children. In India, a child having the age lower than 18; is considered as a juvenile. According to the Juvenile Justice Act, 2000; if a juvenile commits a crime then he or she can't be given hard punishments as in the case of the adults. This Act conveys the provision of sending a juvenile to the child improvement house on finding guilty of committing a crime.

From past few years, the demand of lowering down the age of juvenile from 18 to 16 has raised due to increasing involvement of children of age between 16 to 18 in crime. There are a number of cases where it is found that the juveniles have committed a serious crime like rape and besides, punishing them hard; our courts have to follow the laws and have to send them in beneficiary house for further improvement in their character. The current paper highlights the Juvenile Justice Act, 2000 and its related issues.

KEYWORDS: Juvenile, Act, Justice, Legal, Children, Age, Court

INTRODUCTION

Recently, in Nirbhaya case; it was found that there was a juvenile among the rapists and in spite of hard punishment; that juvenile was sent to juvenile home. Due to this reason, some persons alleges plea in the Supreme Court of India regarding the lowering down the age of the juvenile from 18 to 16.

But, on July 17th, 2013; the Supreme Court of India dismissed this plea. Hence, the basic problem relies in the upbringing and surrounding environment of the children which force them to commit a crime. It is observed that most of the juvenils who are found guilty of committing a crime are either poor or parentless.

Hence, the role of the family members and societies has been increased in order to take care the children and there should be someone in the lives of the children who can really guide them if they seem to be misguided by someone.

According to the Juvenile Justice Act, all the children up to the age of 18 have the scope of improving their character. Hence, on finding the guilty of committing a crime; there is the provision of sending them to the juvenile home so that all the bad habits of these kinds of children can be eliminated and they can be made better person.

This Juvenile Justice Act, 2000 also takes care of the fundamental rights of the children where all the children are provided with the equivalent opportunities to grow up. This Act also suggests that the mind of the children is also clean and any person can make use of them and influence them to commit a crime. Therefore, the Juvenile Justice Act, 2000 provides the opportunity to the juveniles to make further changes in their character if they are being used by other persons.

There was never any doubt that the progressive juvenile law enacted in 2000 was not being implemented properly and that there was a need to revisit its provisions. In many ways, the Juvenile

Justice (Care and Protection of Children) Bill, 2015, passed by the Lok Sabha, is a forward-looking and comprehensive enactment that provides for dealing with children in conflict with the law and those requiring care and protection. However, its laudable features have been overshadowed by one provision that states that children in the 16-18 age group will henceforth be tried as adults if they are accused of committing 'heinous offences'.

The government believes that the provision will help address public disquiet over the perception that young offenders are getting away with light punishment after committing crimes such as murder and rape. However, child welfare activists have been saying there is no need to carve out an exception for children in a particular age group solely based on the perceived heinousness of the offence.

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The division into two groups — one below 16 and another above 16 — goes against the core principle that all children should be treated as such till the age of 18. This age has been fixed based on studies in child behaviour and the U.N. Convention of the Rights of the Child. A parliamentary Standing Committee opposed the change, noting that subjecting juveniles to the adult judicial system would go against the objective of protecting all children from the rigours of adult justice.

It noted that the Supreme Court had not agreed with the view that children involved in certain offences should be tried as adults. It has dropped a patently unconstitutional section (Clause 7 in the Bill) that sought to treat as adults, children allegedly committing an offence after the age of 16 but getting arrested only after they are 21. Also, the government has tweaked the wording involved, saying that what the Juvenile Justice Board will hold is a "preliminary assessment" rather than a "preliminary enquiry" into the mental and physical capacity of the child to commit such an offence. It has added by way of explanation that it is not a 'trial', obviously to address concerns that the procedure to assess the child's capacity itself may amount to a regular trial.

The prospects of the government making further changes before the Bill goes to the Rajya Sabha appear to be bleak. Human rights are those rights which are essential to live as human beings' basic standards without which people cannot survive and develop in dignity. They are inherent to the human person, inalienable and universal.

As part of the framework of human rights law, all human rights are indivisible, interrelated and interdependent. Understanding this framework is important to promoting, protecting and realizing children's rights. Despite significant efforts to improve rights of the child, vulnerable and marginalized children are being forgotten. Children who are victims of abuse, exploitation and discrimination, and suffer exclusion from education, healthcare and other vital services, are being largely overlooked by international development efforts that could dramatically improve their lives and prospects.

Children who lack protection are often invisible. Millions of children are invisible to the world because their plight is hidden, under-reported, or openly neglected. Children who are most likely to become invisible have no formal identity, grow up without the loving care of parents or family, are pressed too early into adult responsibilities, and exploited for profit.

The world cannot afford to let children slip from view. By allowing children to disappear from view and failing to reach and protect them, societies condemn children to more neglect and abuse, with lasting consequences for their well-being and for the development of their communities and countries. Children need a protective environment to shield them from harm.

All levels of society ;V from families and governments to teachers and the media have a part to play individually and collectively to prevent abuse and to ensure that children are not made invisible or forgotten. Children deserve to live in safety and with dignity. Abuse and exploitation are an affront to every child's dignity and an intolerable violation of their rights. Protecting children is essential to their physical and emotional health, their general well-being, and their ability to develop to their fullest potential. It is therefore essential to the human and economic development of nations.

UNICEF is guided in doing this by the provisions and principles of the Convention on the Rights of the Child. Built on varied legal systems and cultural traditions, the Convention is a universally agreed set of non-negotiable standards and obligations. These basic standards also called human rights' set minimum entitlements and freedoms that should be respected by governments. They are founded on respect for the dignity and worth of each individual, regardless of race, color, gender, language, religion, opinions, origins, wealth, birth status or ability and therefore apply to every human being everywhere.

DISCUSSION

The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights' civil, cultural, economic, political and social rights. In 1989, world leaders decided that children needed a special convention just for them because people under 18 years old often need special care and protection that adults do not.

Under this act juvenile cases can not be processed with non-juvenile cases. A juvenile can not be rendered unfit or 'disqualified". Juveniles are not exposed to the media as magazines, news papers and visual media are not permitted to release the information about the juvenile. Juveniles who run away from the Observation or Special homes can be brought back without a warrant and without punishment.

Cruelty (such as assault or neglect) towards juveniles in the home or by any person in charge of him/her is a punishable offence. This act also has provisions to penalize people who exploit children for a crime. A person, who employs a child in a hazardous industry, employs him/her for begging or provides a child with drugs or alcohol is liable to serve prison time and pay fines.

The Ministry of Women and Child Development had introduced the Juvenile Justice (Care and Protection of Children) Bill 2014 in the Lok Sabha on 12th August 2014. It sought to make more robust, effective and responsive the legislative framework for children in need of care and protection as well as children in conflict with law. Its provisions responded to the perceptions, articulated by a wide cross-section of society for the need to have an effective and strengthened system of administration of juvenile justice, care and protection.

The Act provides that in case a heinous crime has been committed by a person in the age group of 16-18 years it will be examined by the Juvenile Justice Board to assess if the crime was committed as a 'child' or as an 'adult'. Since this assessment will take place by the Board which will have psychologists and social experts, it will ensure that the rights of the juvenile are duly protected if he has committed the crime as a child. The Act streamline adoption procedures for orphaned, abandoned and surrendered children. It establishes a statutory status for the Child Adoption Resources Authority (CARA).

The legislation further proposed several rehabilitation and social integration measures for institutional and non-institutional children. It also provided for sponsorship and foster care as completely new measures. It provided for mandatory registration of all institutions engaged in providing child care. New offences including illegal adoption, corporal punishment in child care

institutions, the use of children by militant groups, and offences against disabled children were also incorporated in the proposed legislation.

The major amendments include removal of Clause 7 that relates to trial of a person above the age of 21 years as an adult for committing any serious or heinous offence when the person was between the ages of 16-18 years; enhancing the period of preliminary inquiry by the Juvenile Justice Board in case of heinous offences committed by children in the age group of 16-18 years; increasing the reconsideration period for surrender of children by parents or guardians; enhancing the period for inter-country adoption in case the child is not given for domestic adoption; assigning the role of designated authority to monitor the implementation of the Bill to the National Commission for Protection of Child Rights; and making the Central and State Governments responsible for spreading awareness on the provisions of the Bill.

CONCLUSION

India is a developing country with a developing law. Since the last couple of years, a fear has also developed in the society. This fear is of criminals who wield their intentions without hesitance by the virtue of inherent lacunae in the Juvenile law of our nation. Indian law recognizes the concept of a Juvenile or a child in conflict with law; however, it remains oblivious to the separate concept of an innocent child in conflict with law. It overlooks the varying psyche of individuals and sways the blanket of protection plainly on the basis of one's age. This gives rise to the profligate demonic overt actions that the population of India has been witness to, over the past couple of years. The law needs to be amended, or if not that, then the loopholes of the legislation need to be adequately grounded and thenceforth covered, the inability of which would lead to grave consequences. The author believes that the contentions in the paper are reasonable and accurate and the recommendations would solve the clash and conflict in the current juvenile law.

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