

## A CRITICAL ANALYSIS ON JUVENILE JUSTICE ACT, 2015 CAN AGE DEFINE YOUR CRIME.

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### ABSTRACT

Juvenile Justice Act is the area of criminal law applicable to persons not old enough to be held responsible for criminal acts. Juvenile Justice Act, 2015 states justice for the children aged from 16 to 18 on committing heinous offences, to be tried as adults. This act is replaced by the Juvenile Delinquency law, Juvenile Justice (Care and Protection of Children) Act,2000. As children are supremely recognized as the assets of the state there is a great need to do something for the justice of the juveniles. The prime focus of this act is to solve various issues relating to child welfare system, enhancement of probation system, social re-integration and children in conflict in law. Therefore, this paper deals with the historical background, procedure in relation to children in conflict with law, procedure in Relation to Children in Need of Care and Protection, Rehabilitation and Social Re-Integration.

Keywords- Juveniles, heinous offences, crime

### INTRODUCTION

Juvenile delinquency has invariably been considered as a social problem over the actual fact that it is a legal downside, to avoid this social evil one should tackle the complicated downside of delinquency from the social psychological and to familial angles. Delinquency has but become a reason for concern in India because of the rising crime reports. This crime has touched skies and was terribly tough for the government to regulate such crime, to control such crime the Juvenile Justice Act was amended and varied new provisions were intercalary. Youngsters of the age group 16-18 years were responsible for 66% of crimes committed by all children in 2013 reflecting an increase of ten percent points from 2003 records (Crimes in India, 2014: 128-129). Juvenile Justice Act,2015 is the recent act passed by the Indian parliament on 22<sup>nd</sup> December 2015. This act of 2015 was formed with a view to amend the Juvenile Justice Act (care and protection act) of 2000

Juvenile Justice Act was introduced within the year 1986, The first central legislation on Juvenile Justice was passed in 1986, by the Union Parliament, providing a standardized law on

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juvenile justice for the whole country. Prior to this legislation each state had its own legal system. Various amendments were made in the Act of 1986, In 1989 the General Assembly of the United Nations adopted the Convention on the Rights of a Child. India ratified the UNCRC in 1992. The convention outlines the right of the child to reintegration into society without judicial proceedings where avoidable. Hence the Government, to fulfil the standards of the convention felt a need to re-write the law. Hence in 2000 the old law was replaced by the Juvenile Justice (Care and Protection of Children) Act. Further the act of 2000 was replaced by Juvenile Justice Act of 2015.

### **Who is a juvenile?**

A "juvenile" is a person who has not attained his eighteenth birthday, and "juvenile delinquency" is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult. A person over eighteen but under twenty-one years of age is also accorded juvenile treatment if the act of juvenile delinquency occurred prior to his eighteenth birthday.<sup>2</sup>

### **NEED FOR JUVENILE JUSTICE ACT,2015**

- The Articles 15(3),39(e) and (f), 45 and 47 of the constitution has bestowed powers on the state and has imposed various duties on the government to ensure that children are able to meet their desires and their rights are absolutely protected.
- The need to amend the juvenile justice act,2000 was felt. There was no varied distinction on the age of delinquent before the insertion of Children Act,1960. The JJA Act, 1986 was abrogated by Juvenile Justice Act 2000 and various distinctions in regard to change in ages were made by the Indian government. Now age of juvenile in conflict with law for male and feminine has been mounted at 18 years.
- Many crime reports showed the increasing juvenile crime rate in Asian nation, National Crime Record Bureau mentions about the increasing crime rate of the juveniles, especially children in the age group of 16 to 18. The alarming incident of "*Nirbhaya Delhi Gang Rape Case*", on December 16, 2012 dismayed the whole nation and many debates were started among legal fraternity and socialists. The agenda of the controversy was the involvement of the juvenile, six months short to attain the age of 18 who was held accountable for committing the crime. This alarming incident had raised the general public demand to lower the age of juvenile underneath the act.

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<sup>2</sup><https://www.justice.gov/jm/criminal-resource-manual-38-juvenile-defined>

The Gazette defines the act as An Act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, hereinunder and for matters connected therewith or incidental thereto.<sup>3</sup>

This act also briefs about the basic principles of care and protection of the children. Children do have the rights to live freely in the country but not on the cost of committing serious offences.<sup>4</sup> Protection and Development programmes for the specially disadvantaged children should ensure that every child should ensure that every child has equal opportunities for optimum personal growth. Socio-economic circumstances of a family often result in stress, family disintegration and child destitution. Therefore, various programmes and reform centres were formed for protection for the disadvantaged young ones. The basic aim of the social worker was to protect the child from being separated from their family, prevention of the family from being disintegrated and abandonment of the child. In some cases, children are under the custody of their extended families or institutions, this kind of care cannot substitute the protection and care which the real ones can provide. There were various principles to be followed by the act and some of them are as follows-

- 1) <sup>5</sup>Principle of presumption of innocence: Any child shall be presumed to be an innocent of any mala fide or criminal intent up to the age of eighteen years.
- 2) Principle of dignity and worth: All human beings shall be treated with equal dignity and rights.
- 3) Principle of participation: Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.

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<sup>3</sup> THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000 NO. 56 OF 2000 [30th December, 2000] THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDEMENT ACT, 2006 ( No.33 of 2006 )

<sup>4</sup> THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015 NO. 2 OF 2016 [31st December, 2015.]

<sup>5</sup> THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015 NO. 2 OF 2016 [31st December, 2015

- 4) Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.
- 5) Principle of family responsibility: The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.
- 6) Principle of safety: All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter.
- 7) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.

In case an individual who is supposed to have committed an offence claims before a court aside from a Board, that the person may be a kid or was a kid on the date of commission of the offence, or if the court itself is of the opinion that the person was a kid on the date of commission of the offence, the aforesaid court shall build inquiry, take such proof as could also be necessary (but not an affidavit) to see the age of such person, and shall record a finding on the matter, stating the age of the person as nearly as could be.

Provided that such a claim could also be raised before any court and it shall be recognized at any stage, even when final disposal of the case, and such a claim shall be determined in accordance with the provisions contained during this Act and therefore the rules created there below even though the person has ceased to be a kid on or before the date of commencement of the act.

4) If the court finds that a person has committed an offence and was a child on the date of commission of such offence, it shall forward the child to the Board for passing appropriate orders and the sentence, if any, passed by the court shall be deemed to have no effect.

5) In case a person under this section is required to be kept in protective custody, while the person's claim of being a child is being inquired into, such person may be placed, in the intervening period in a place of safety.<sup>6</sup>

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<sup>6</sup>The Juvenile Justice (Care and Protection of Children) Act, 2015

## Juveniles in conflict with law

The children in conflict with law has originally been represented inside the section 2(I3) of the Juvenile Justice Act,2015. It is defined as the child who is alleged to or found to have committed an offence and has not completed 18 years of age on the date of commission of such offence.

As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, who shall produce the child before the Board without any loss of time but within a period of twenty-four hours of apprehending the child excluding the time necessary for the journey, from the place where such child was apprehended: Provided that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail<sup>7</sup>. State government has made various rules that in which manner the child in conflict be presented before the board and the government provides the manner the conflict is sent to the observation board or any place of safety.

### What is a Juvenile Justice Board?

A board where juveniles accused of a crime are brought for rehabilitation. The government sets up various Juvenile Justice Boards in each district from time to time for exercising powers and discharge duties in relation to children in conflict with law. As per section 8 of the Juvenile Justice (Care and protection of children) Act, 2015 the board shall, Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government shall, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging its functions relating to children in conflict with law under this Act<sup>8</sup>. The powers under this board shall also be exercised by the children's court as well as the high court, when the proceedings comes to them in form of a revision or appeal.

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<sup>7</sup>THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015,MINISTRY OF LAW AND JUSTICE, OFFICIAL GAZETTE.

<sup>8</sup> THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015 NO. 2 OF 2016 [31st December, 2015.]

[https://www.advocatekhaj.com/library/bareacts/juvenilelaw2016/8.php?Title=Juvenile%20Justice%20\(Care%20and%20Protection%20of%20Children\)%20Act,%202015&STitle=Powers,%20functions%20and%20responsibilities%20of%20the%20Board/](https://www.advocatekhaj.com/library/bareacts/juvenilelaw2016/8.php?Title=Juvenile%20Justice%20(Care%20and%20Protection%20of%20Children)%20Act,%202015&STitle=Powers,%20functions%20and%20responsibilities%20of%20the%20Board/)