

## A STUDY ON JUVENILE JUSTICE ACT,2000

**<sup>1</sup>B. Madhana**

<sup>1</sup>Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences,  
Saveetha University, Chennai-77,Tamilnadu,India.

**<sup>2</sup>Mrs. V.Udayavani**

<sup>2</sup>Saveetha School of Law, Saveetha Institute of Medical and Technical Sciences,  
Saveetha University, Chennai-77,Tamilnadu,India.

<sup>1</sup>madhana.baskaran@gmail.com, <sup>2</sup>udayavani.ssl@saveetha.com

### ABSTRACT

This paper is based on a research project on title “A Study on Juvenile Justice Act.” Juvenile Justice System is most dynamic and illuminated framework embraced by the world citizenry with all round development of children. The prime center is to change the degenerates and give consideration to the unprotected children. To the extent practicable, a child to be rehabilitate and reestablished to the family. The article assessed the Juvenile Justice System in India in the light of protected reasoning and International parameters. Various adults today have this thoroughly Aristotelian beginning of pre-adulthood without having truly examined any of Aristotle. It instructs their understanding of their own relationship toward the adolescents around them. In this way they consider the fundamental commitment they bear toward their youths to be the dedication to give the kind of enduring environment those children need to frame into regular adults, with the common and mental structures set up anticipated that would play out the limits we acknowledge that normal, standard adults can perform. John Locke, by separation, keeps up that the human identity begins as a "white paper, depleted of all characters, without any contemplation. On this view each one of the "materials of reason and learning" starts in actuality.

On such a point of view, the estimation of what a child produces can't be required to be extraordinary in it, however, valuable for helping the child to shape into a fair adult.

**KEYWORDS:** Children's Rights, Juvenile Justice System, Constitutional Law, Child Welfare, Crime.

#### **RESEARCH METHODOLOGY :**

Only secondary sources have been referred for this study. Primary sources including interview with people was not possible. Secondary sources including books, research articles and web sources and blogs. This paper was completed through descriptive methodology.

#### **INTRODUCTION**

The frightful incident of NIRBAYA RAPE CASE raised many debates. And the prime issue among these was the involvement of the juvenile perpetrator, who was only six months short from becoming adult[3]. This attracts the law of Juvenile Justice (care and protection) Act, 2000[4] and the culprit was sentenced by the court only for three-year confinement[5]. Against this decision of Apex Court, several protests were made, which demanded amendment in the existing Juvenile Justice Law.

Almost all the Countries have developed a juvenile justice system to deal with their young offenders. India India this issue has been in the highlight lately with problems and related issues at various forums[6]. However, this case is not only reason for the Government to introduce this bill. The Ministry of Women and Child Development justified the introduction of bill with several other reasons. The prime two reasons of all were, first, the Juvenile Justice Act, 2000 was facing implementation and procedural delays. Secondly, the National Crime Records Bureau (NCRB) Reports indicate increase in the Juvenile Crime between the age group of 16-18 years. Along with the huge proponents, there were some child activists, who criticized this Act on many grounds: first, stating it to be retributive not reformative.

Accordingly, this paper is divided in different parts. The first part has focused on controversy, which was raised by many activists who called the new Juvenile Justice Act as retributive not reformative. In the second part of the paper, focus has been on the Juvenile Justice Act and the issues relating to the maturity of the juvenile and why it is necessary to take

consideration of same. Third part of the paper highlights the provisions of juvenile justice Act, which can violate Fundamental Rights of the Child. The aim of this Study is analysis of the various rights available to Juvenile Children under the Juvenile Justice Act.

This Study endures on the Juvenile Justice Act and the issues relating to the maturity of the juvenile.

#### **RESEARCH MATERIALS:**

1. Black's law dictionary (9<sup>th</sup> standard edition).
2. All India reporter (AIR).
3. Bluebook (19<sup>th</sup> Ed.) citation method.
4. Criminal Procedure Code, 1973 by Kelkar.
5. Juvenile Justice bare Act, universal publication.

#### **RESEARCH METHOD:**

The topic of this project is such that it will require the researcher more to go through the Doctrinal mode of research with the help of books available and from some of the previous researches and also some authenticated websites present on the Internet.

Primary source: statutes, Bare acts.

Secondary source: Articles on Juvenile Justice Books and Indian journals.

#### **JUVENILE JUSTICE ACT, 2000- RETRIBUTIVE OR REFORMATIVE**

The key purpose to legislate the Juvenile Justice Act, 2000 was the increased number of crimes (mainly rapes), by juveniles of 16 to 18 age groups. However, numerous questions were raised on the new Juvenile Justice Act, 2015, as being more retributive than reformative. Retributive because it contains provisions for teenager who commits heinous crime (give punishment seven years or more[7]) shall be tried like an adult but in the Children's Court. The Children's Court shall make sure that the child who is found guilty of heinous crime shall be sent to a place of safety till the age of twenty-one years and afterward, the person shall be shift to jail. It means once a juvenile is found guilty; he shall not get the benefit of being child and may be sent to jail if he commits a heinous crime.

### **ESTABLISHMENT OF JUVENILE COURT**

The Act provides for constitution of Juvenile Courts[8]. It is as follows:

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Central Act No. 5 of 1898), the State Government may, by notification, constitute for any area specified in the notification, one or more Juvenile Courts for exercising the powers and discharging the duties conferred or imposed on such Court in relation to delinquent and neglected children under this Act.

(2) The Juvenile Court shall consist of one or more Magistrates not exceeding three, forming a Bench as the State Government may think fit, to appoint. If the number of Magistrates, is more than one, the State Government shall designate one of them as Senior Magistrate. Every such Bench shall have powers conferred by the Code of Criminal Procedure, 1898 (Central Act No. 5 of 1898), on a Magistrate of the First Class.

In the event of any difference of opinion among the Magistrates of a Juvenile Court, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Senior Magistrate shall prevail.[9] A Juvenile Court may act notwithstanding the absence of any Magistrate of the Juvenile Court and no order made by the Juvenile Court shall be invalid by reason only of the absence of any Magistrate, during any stage of the proceeding. No person shall be appointed as a Magistrate in the Juvenile Court unless he has in the opinion of the State Government special knowledge of child psychology and child welfare[10].

### **MATURITY LEVEL OF THE JUVENILES**

Another important issue which needs special attention is parallel culpability of the Children (between the ages of 16 to 21 years) with that of adult. It has been discovered by many neuropsychologist that according to Ruben C. Gur, the biological age of majority is close to 22 years and the pertinent parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable, develops after attaining the age of maturity. In this respect to punish a juvenile, like an adult would result in excess punishment. The Juvenile Justice Act, 2000 has reversed the well founded principle of juvenile justice by allowing Juvenile Justice Boards to waive the right of children above the age of 16 years who have committed a heinous offence into the criminal justice system. This means the treatment of a juvenile will depend upon the type of offence committed instead of his

situation, but this principle violates equality among equals[11]. The children between the ages of sixteen and eighteen involved in heinous crimes to be tried as adults and receive the maximum punishment. This faced major opposition. While the proponents of the reduction in the age of majority emphasise on the need to try those accused of adult crimes as adults, the anti-amendment groups feel that the commission of crimes by juveniles is grounded in their compelling socio-economic conditions. There is a need to improve the conditions of the juvenile homes to ensure that they get another chance to live their lives as ordinary citizens.

In *Prabhakaran Vs State of Tamil Nadu*[12], The Madras High Court observed in this case that rights of a child are an integral part of human rights, yet protagonists of human rights hardly ever focus their attention to the exploitation and abuse of the rights of a child. "Human rights issues basically revolve around excesses by Police or Security Agencies, wrongful incarceration etc. The media also rarely highlights exploitation of children's rights. May be the offence committed by the juvenile is shocking like murder or rape but as pointed out in *Krishna Bhagwan v State of Bihar* [13](though under the earlier Act), the appropriate provision in the Act is quite conscious of such situations. If a Board is satisfied that a juvenile has committed an offence it may allow the juvenile to go home with an advice or admonition or direct him to participate in group counselling; community service, etc.; direct him to be released on probation as also order such directives as it may think fit. The Board may also make the terms and conditions of supervision and furnish copy to the juvenile, parent, guardian or other person or fit institution. Thus, welfare of the juvenile is the prime concern of the law makers. The Juvenile Justice Act 2000, has indubitably been a savior for the rights of the children. The Supreme Court dismissed the plea to reduce the age of the juveniles from 18 to 16 years.[14]

### **CONSTITUTION AND JUVENILE JUSTICE ACT**

The new Juvenile Justice Act, 2000 was also criticized by many protestors as being unconstitutional. It violates Article 14, 15(3) and 20 of Indian Constitution. Constitution of India enumerated every person is equal before law 160 but if we read this article with 15(3) then it is very much clear to us that Government can make special provision for the benefit of children. It is also enumerated in the United Nations Standard Minimum Rules for the Administration of Juvenile, 1985 that the prime important should be given to the juvenile Justice and while considering a juvenile in conflict with law. That means one must give importance of both the

circumstances of the offenders and offence, but in the current Act only the type of crime is given importance. In *Pratap Singh v. State of Jharkhand*[15], it was observed by Court that in Rule 4 of United Nations Standard Minimum Rules for the Administration of Juvenile Justice, while defining a juvenile criminality or criminal responsibility, the moral and the psychological components must be given prime importance. However, in the present law, this psychological component has been given least importance.

According to Prof. Ved Kumari, if a sixteen years old juvenile commits a heinous crime and his or her offence is punishable with seven year sentence, then he/she need to be produce before the Juvenile Justice Board comprising a magistrate and two social workers who will decide on the physical and mental capacity of the child; whether that juvenile has committed such offence has the ability to understand the consequence of the offence and in what circumstances the offence has been committed. This work of Juvenile Justice Board is quite challenging. In this process, there is huge chance of uncertainty. It was also argued by her that many researches confirmed that individualized assessments of adolescent mental capability are impracticable. Thus, the method of so-called introductory assessment by the Juvenile Justice Board may result in procedural arbitrariness and may cause arbitrary transfer of juvenile cases to adult criminal system it may cause violation of very foundation of Constitution.

In *R.K. Tarun vs Union Of India & Ors*[16], the Court held that the provisions of Sections 15 and 16 of the Juvenile Justice (Care and Protection of Children) Act, 2000, violated the rights guaranteed to a citizen under Article 21 of the Constitution.

### **AGE OF CONSENT AND JUVENILE JUSTICE ACT**

The amendment of Juvenile Justice Act, 2000 has created controversy in regard to the Age of Consent, when it read with the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and the Prohibition of Child Marriage Act (PCM Act) . First of all the POCSO Act states the age of Consent is 18 years and if any crime committed by a Juvenile under the POCSO Act then as per the section 23 of the POCSO Act it will be dealt as per the provision of Juvenile Justice Act, 2000 (Now as per the new amended Act). Again, the PCM Act states that the child marriages are voidable but not void.

Such a harsh law against Juveniles can be a weapon in hand of angry parents in child elopement cases. If we look into the crime report of 2013, we can observe about 1388 cases are

reported of rape which is only 4.18% of the total crimes committed by the juvenile between the age group of 16-18 years and from them many cases are relating to elopements where the parents come complaining to police that their children were sexually abused or kidnapped and lodge FIR against boy. One of the famous cases in this regard was Court on its own motion v. State In this case, the parents of the girl filed a complaint of sexual assault and kidnapping against the boy, but in reality the girl elope with the boy with her own consent a protected the marriage ties of the young couple by sending the girl to nari niketan and sentencing the young boy to stay at juvenile home for three years. Now after the amendment of Juvenile Justice Act when read with POCSO Act, in similar situation there is a doubt whether court can give similar decision or not. This doubt was also raised by the stake holders of the Rajya Sabha.

### **RECOMMENDATIONS**

The Government of India other than getting justice the importance of the child in different authorizations can in like manner swing to the going with measures for the welfare of the child: The fissure between their childhood and adulthood can be crossed by giving them stages to enhance their aptitudes for a prevalent business later; the schools should give and redesign the expert capacities of youths other than fundamental preparing to make it worthwhile to children having a spot with the loaded ranges of the overall population. The Government suits Mid-Day Meals in schools and nearby expert direction – a particular measure of expert preparing is starting now given - the enrolment in schools may in like manner addition as going to class will be significant for the child.

Child welfare programs like the Kishori Shakti Yojana (Program for young women) and Rajiv Gandhi Scheme for the fortifying of Adolescent Girls have been pushed by the governing body to empower the young women in expert, life, and wholesome capacities. Enrolment in these undertakings can be intense in putting off the child in taking up work in industry; Schemes for the pre-adult young children can have any sort of impact in the lives of young children. The need is to begin the child into expert guideline after their compulsory preparing. This can be begun with the help of stages which the organization starting now has for the welfare of the children.

## CONCLUSION

Children develop the nation's precious human resources. The future accomplishment of the nation depends on upon how its children perform and execute. The great poet Milton said, "Youth Shows the man as morning presentations the day". So it is the devotion of the general masses to deal with every pre-adult with a point of view to ensuring full advance of its personality. Children are the future controllers and light bearers of the Society: they are the units of our understanding, social legacy, conviction structures, and rationalities. Children are genuinely future parts as sensational instructors, specialists, judges, rulers, powers, coordinators, engineers, politicians on whom the entire society set up (rests). Disastrously a broad number of children are obstructed from securing their childhood and right to bearing and thereby they are subjected to exploitation, misuse, and abuse. Child labor is a complex wealth related issue. In a country where a large number children go to bed hungry, without having a single full dinner of the day, total end of child labor by the basic legal arrangement of activity can never be said to be a sensible recommendation. It may cover the disquietude yet can't cure it. Samuel Johnson opined that, "Desperation is a remarkable adversary to human fulfillment; it certainly destroys flexibility, and it makes a couple of Excellencies impracticable and others to an extraordinary degree troublesome. The Government of India other than getting justice the importance of the child in different authorizations can in like manner swing to the going with measures for the welfare of the child: The fissure between their childhood and adulthood can be crossed by giving them stages to enhance their aptitudes for a prevalent business later; the schools should give and redesign the expert capacities of youths other than fundamental preparing to make it worthwhile to children having a spot with the loaded ranges of the overall population. The Government suits Mid-Day Meals in schools and nearby expert direction – a particular measure of expert preparing is starting now given - the enrolment in schools may in like manner addition as going to class will be significant for the child. Child welfare programs like the Kishori Shakti Yojana (Program for young women) and Rajiv Gandhi Scheme for the fortifying of Adolescent Girls have been pushed by the governing body to empower the young women in expert, life, and wholesome capacities. Enrolment in these undertakings can be intense in putting off the child in taking up work in industry; Schemes for the pre-adult young children can have any sort of impact in the lives of young children. The need is to begin the child into expert guideline after their compulsory preparing. This can be begun with the help of stages which the organization starting



now has for the welfare of the children. The stages may be the schools at the common and urban levels where growth in their direction can be given as expert preparing.

The Government of India has moreover dispatched Integrated Child Protection Services Scheme to manage the youth requiring thought and certification. The degree of this framework can be reached out with the help of commonplace and urban adjacent government to professionally get ready adolescents and deferral their employment; and the issue of child work must be taken care of by study this risk in the greater perspective. The Government has begun dares to do thusly by starting different national level tasks like National Rural Employment Guarantee Scheme, Food Security Scheme, National Rural Health Mission, Integrated Child headway Services Scheme Integrated Child Protection Services Scheme et cetera.

#### REFERENCES

1. Jyoti Prakash Rai V. State of Bihar – AIR 2008 SC 1696
2. The Code of Criminal Procedure – by N.V.Paranjape, Central Law Publications
3. The Code of Criminal Procedure, 1973 – by S.N.Misra
4. Text book on The Code of Criminal Procedure – by K.D.Gaur, Universal law Publication, 2016 Edition
5. The Code of Criminal Procedure – by Ratanlal and Dhirajlal, Lexis Nexix, 22<sup>nd</sup> Edition
6. [www.lawnotes.in](http://www.lawnotes.in)
7. [www.childlineindia.org.in](http://www.childlineindia.org.in)
8. [www.odishapolicecidcb.gov.in](http://www.odishapolicecidcb.gov.in) – by Amrudesh, 1.7.2014
9. [www.advocatekhoj.com](http://www.advocatekhoj.com)
10. [www.vakilno1.com](http://www.vakilno1.com) – by sushmita Dasagupta
11. <http://www.thecitizen.in/index.php/en/newsdetail/index/8/7917/the-age-of-majority-and-juvenile-justice>
12. <https://blog.ipleaders.in/juvenile-justice-indian-law/>
13. Black's law dictionary (9<sup>th</sup> standard edition).
14. All India reporter (AIR).
15. Bluebook (19<sup>th</sup> Ed.) citation method.

16. Criminal procedure code, by Kelkar's, Eastern book company.
17. Juvenile Justice bare act, universal publication.
18. Dr.Lakshmi T and Rajeshkumar S "In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes", International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 3, P.No 20-25, March 2018.
19. Trishala A , Lakshmi T and Rajeshkumar S, " Physicochemical profile of Acacia catechu bark extract –An In vitro study", International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 4, P.No 26-30, April 2018.

---

[1] V year, BA., LLB (Hons), Student at Saveetha School of law, Chennai. Email id: madhana.baskaran@gmail.com

[2] Assistant professor of law, Saveetha School of law, Chennai. Email id:udhayavani.ssl.saveetha.com

[3] In Fact: New Juvenile Justice Act on the Way, but Debate Continues, THE INDIAN EXPRESS, Mar. 15, 2015, <http://indianexpress.com/article/explained/in-fact-new-juvenile-justice-act-on-theway-but-debate-continues/>.

[4] Juvenile Justice (Care and Protection of Children) Act, 2000 § 2(k) "juvenile" or "child" means a person who has not completed eighteen years of age.

[5] Juvenile Justice (Care and Protection of Children) Act, 2000.

[6] [www.lawctopus.com](http://www.lawctopus.com) , by Kanchi, 13.11.2015

[7] Juvenile Justice (Care and Protection of Children) Act, 2000

[8] Section 4 of the Juvenile Justice Act

[9] [www.edupediapublications.org](http://www.edupediapublications.org) – by Geetha Shah

[10] Section 5 of the Juvenile Justice Act

[11] Article 14 of the Indian Constitution.

[12] In the High Court of Judicature at Madras / dated: 18/03/2003 /W.P.No 4511 of 2003

[13] AIR 1989 Patna 217 (FB)

[14] 3 SCC 551 (2005)

[15] In the High Court of Delhi at New Delhi, W.P.(c) 1308/2013.



