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**“JUVENILES AND THE CRIMINAL JUSTICE SYSTEM”**

**SUB THEME: - REHABILITATION OF JUVENILE OFFENDERS**

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**Introduction :-**

The key purpose of Indian legislature to legislate the juvenile justice Act, 2015 was the increased huge number of crimes by juveniles of 16 to 18 age groups. The incident of ‘Nirbhaya rape case’ raised many debate, which demanded amendment in the existing juvenile justice (care and protection) Act, 2000.

The juvenile justice (care and protection) Act, 2000 completely lacks of clarity regarding role, power, responsibilities, functions and accountability of Child Welfare Committees and Juvenile Justice Boards.

The non-registration of institutions under the Juvenile Justice Act, 2000 and inability of the states to enforce registration due to lack of any penal provisions for non-compliance.

The juvenile justice (care and protection) Act, 2000 extinguishes any ground provisions to counter offences against children such as corporal punishment, sale of children for adoption purposes, ragging etc.

The Act came into force from 15 January 2016 in India. The Juvenile Justice (Care and Protection of Children) Act, 2015 has been passed by Indian parliament. The Juvenile Justice act aims to replace the existing [Juvenile Justice \(Care and Protection of Children\) Act, 2000](#) and to amend earlier demerits and irregularities, such that juveniles in conflict with Law in the age group of 16–18, involved in Heinous Offences, can be treated as adults.

Juvenile Justice (Care and Protection of Children) Act, 2015 looks at the basic needs of children through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly method and disposal of matters in the best interest of children and for their rehabilitation through process provided and defined under the Juvenile Justice (Care and Protection of Children) Act, 2015.

The key purpose of Indian legislature to legislate the juvenile justice Act, 2015 was the increased huge number of crimes by juveniles of 16 to 18 age groups. The incident of ‘Nirbhaya rape case’ raised many debate, which demanded amendment in the existing juvenile justice (care and protection) Act, 2000.

However, this case is not only reason for the Government to introduce the Juvenile Justice (Care and Protection of Children) Bill, 2014. The ministry of women and child development justified the introduction of bill with several other reasons.

The most important reasons were delays in various processes under the Act, such as decisions by Child Welfare Committees and Juvenile Justice Boards, leading to high pendency of cases and delay in inquiry of cases leading to children languishing in Homes for years altogether for committing petty offences.

Increase in number the incidents of abuse of children in institutions and Inadequate facilities, quality of care and rehabilitation measures in Homes, especially those that are not registered under the Act, resulting in problems such as children repeating offences, abuse of children and runaway children.

The juvenile justice (care and protection) Act, 2000 completely lacks of clarity regarding role, power, responsibilities, functions and accountability of Child Welfare Committees and Juvenile Justice Boards. The juvenile justice (care and protection) Act, 2000 also limits the participation of the child in the trial process, delays in rehabilitation plan and social investigation report for every child.

The procedures by Juvenile Justice Boards and conduct of Board sittings in Courts in various districts extinguished child-friendly environment.

The juvenile justice ( care and protection) Act, 2000 Lacks of any substantive provision regarding orders to be passed by the court, if a child apprehended for allegedly committing an offence was found innocent and no specific provisions for reporting of abandoned or lost children to appropriate authority in order to ensure their adequate care and protection under the Act.

The non-registration of institutions under the Juvenile Justice Act, 2000 and inability of the states to enforce registration due to lack of any penal provisions for non-compliance.

The juvenile justice (care and protection) Act, 2000 extinguishes any ground provisions to counter offences against children such as corporal punishment, sale of children for adoption purposes, ragging etc.

**JUVENILE JUSTICE ACT, 2015:-****BRIEF VIEW:-**

The Juvenile Justice (Care and Protection of Children) Act, 2015 has been passed by Indian parliament. The Juvenile Justice act aims to replace the existing [Juvenile Justice \(Care and Protection of Children\) Act, 2000](#) and to amend earlier demerits and irregularities, such that juveniles in conflict with Law in the age group of 16–18, involved in Heinous Offences, can be treated as adults.

The Act came into force from 15 January 2016 in India. But it was also criticized by many protestors as being unconstitutional.

**CONCEPT OF REHABILITATION:-**

Various Studies indicates that the most efficient and effective way to find constructive solutions to involvement of children in activities that violate a law is to involve children in the process of rehabilitation. The Recognition of juveniles and proper respect for their rights as human being and as a child is a very important, crucial and efficient step in there rehabilitation.

Now we can say that, juvenile justice has made a distance from the criminal justice model of punishment and recognizing the negative effect of association with adult offenders.

Juvenile Justice adopted the model of reformation of children found to have committed an offence through different community based reformatory and rehabilitative measures.

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**REHABILITATION OF JUVENILES OFFENDERS****Process of rehabilitation and social re-integration [Section 39]:-**

The process of rehabilitation and social integration of children under the Act is based on the individual care plan of the child, preferably through family based care such by restoration to family or guardian with or without supervision or sponsorship, or adoption or foster care.

For children in conflict with law the process of rehabilitation and social integration shall be undertaken in the observation homes, if the child is not released on bail or in special homes or place of safety or fit facility or with a fit person, if placed there by the order of the board.

The children in need of care and protection who are not placed in families for any reason may be placed in an institution registered for such children under this act or with a fit person or a fir facility, on a temporary or long-term basis, and the process of rehabilitation and social integration shall be undertaken wherever the child is so placed.

The children in need of care and protection who are leaving institutional care or children in conflict with law leaving special homes or place of safety on attaining 18 years of age, may be provided financial support as specified in section 46, to help them to re-integrate into the mainstream of the society.

**Restoration of child in need of care and protection [Section 40]:-**

The restoration and protection of a child shall be the prime objective of any Children's Home, Specialized Adoption Agency or open shelter.

The Children's Home, Specialized Adoption Agency or an open shelter are need to take such steps as are considered necessary for the restoration and protection of a child deprived of his family environment temporarily or permanently where such child is under their care and protection.

The committee authorized with the powers to restore any child in need of care and protection to his parents, guardian or fit person, as the case may be, after determining the suitability of the parents or guardian or fit person to take care of the child, and give them suitable directions.

“Restoration and protection of a child” means restoration to:-

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- Parents;
  - Adoptive parents;
  - Foster parents;
  - Guardian; or
  - Fit person.

### **Registration of child care Institution [Section 41]:-**

All Institutions must be registered under the Juvenile Justice Act, 2015 with in a period of six months from the date of commencement of the Juvenile Justice Act, 2015.

It is provided that the institution having valid registration under the Juvenile Justice Act, 2000 as prescribed under Section 56, shall be deemed to have been registered under this act.

At the time of registration,

- The state government shall determine the capacity and purpose of the institution.
- The state government shall register the institution as a Children's Home or Open Shelter or Specialized Adoption Agency or Observation home or Special home or place of Safety, as the case may be.
- The period of registration of an institution shall be five years, and it shall be subject to renewal in every five years.

### **Penalty for non-registration of child care institution [Section 42]:-**

Any person, or persons, in-charge of an institution housing children in need of care and protection and children in conflict with law, who fails to comply with the provisions of sub section (1) of section 41, shall be punished with imprisonment which may extend to one year or a fine of not less than one lakh rupees or both.

### **Open Shelter [Section 43]:-**

“Open shelter” means a facility for children, established and maintained by the State Government, either by itself, or through a voluntary or non-governmental organization.

The open shelters functions as a community based facility for children in need of residential support, on short term basis, with the objective of protecting them from abuse or weaning them, or keeping them, away from a life on the streets.

The open shelters needs to send every month information, in the prescribed manner, regarding children availing the services of the shelter, to the District Child Protection Unit and the Committee.

#### **Foster care [Section 44]:-**

- The children in need of care and protection may be placed in foster care.
- The selection of the foster family shall be based on family's ability, intent, capacity and prior experience of taking care of children.
- All efforts shall be made to keep siblings together in foster families, unless it is in their best interest not to be kept together.
- The foster family shall be responsible for providing education, health and nutrition to the child and shall ensure the overall well being of the child in such manner, as may be prescribed.
- No child regarded as adoptable by the Committee shall be given for long-term foster care.

#### **Observation homes [Section 47]:-**

“Observation home” means an observation home established and maintained in every district or group of districts by a State Government, either by itself, or through a voluntary or non-governmental organization.

The observation homes shall be registered under section 41 of this Act, for temporary reception, care and rehabilitation of any child alleged to be in conflict with law, during the pendency of any inquiry under this Act.

#### **Special Homes [Section 48]:-**

“Special home” means an institution established by a State Government or by a voluntary or non-governmental organization, registered under section 48, for housing and providing rehabilitative services to children in conflict with law, who are found, through inquiry, to have committed an offence and are sent to such institution by an order of the Board

#### **Children's Home [Section 50]:-**

“Children's Home” means a Children's Home, established or maintained, in every district or group of districts, by the State Government, either by itself, or through a voluntary or non-governmental organization.

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The State Government is authorized to designate any Children's Home as a home fit for children with special needs delivering specialized services, depending on requirement.

**Fit Facility [Section 51]:-**

“Fit facility” means a facility being run by a governmental organization or a registered voluntary or non-governmental organization, prepared to temporarily own the responsibility of a particular child for a specific purpose, and such facility is recognized as fit for the said purpose, by the Committee, as the case may be, or the Board.

**Fit Person [Section 52]:-**

“fit person” means any person, prepared to own the responsibility of a child, for a specific purpose, and such person is identified after inquiry made in this behalf and recognized as fit for the said purpose, by the Committee or, as the case may be, the Board, to receive and take care of the child.

**Rehabilitation and re-integration services in institutions registered under this Act and management thereof [Section 53].**

(1) The services that shall be provided, by the institutions registered under this Act in the process of rehabilitation and re-integration of children, shall be in such manner as may be prescribed, which may include—

- basic requirements such as food, shelter, clothing and medical attention as per the prescribed standards;
- equipment such as wheel-chairs, prosthetic devices, hearing aids, Braille kits, or any other suitable aids and appliances as required, for children with special needs;
- appropriate education, including supplementary education, special education, and appropriate education for children with special needs:
- Provided that for children between the age of six to fourteen years, the provisions of the Right of Children to Free and Compulsory Education Act, 2009 shall apply;
- skill development;
- occupational therapy and life skill education;
- legal aid where required;
- Birth registration etc.

(2) Every institution shall have a Management Committee, to be set up in a manner as may be prescribed, to manage the institution and monitor the progress of every child.

(3) The officer in-charge of every institution, housing children above six years of age, shall facilitate setting up of children's committees for participating in such activities as may be prescribed, for the safety and well-being of children in the institution.

**Conclusion:-**

So at last this can be concluded that the Indian legislature have taken eminent and effective measures through the Juvenile Justice Act ,2015 by establishing rehabilitation centers for juvenile to rehabilitate and socially re-integrate.