



UNIT-II

JUVENILE DELINQUENCY

The problem of juvenile delinquency is not new. It occurs in all societies simple and complex, that is wherever and whenever a relationship is affected between a group of individuals it leads to maladjustments and conflict. In a developing country like India the problem of juvenile neglect and delinquency is considerably increasing according to the National crime record bureau report 2017. What is worrying more is that the share of crimes committed by juveniles to total crimes reported in the country has also increased in recent years. Considering the magnitude of the problem and issues involved, analysis indicates that the number of factors for neglect and delinquency are mostly common and interrelated, based on socio-economic and psychological reasons. Poverty, broken homes, family tensions, emotional abuse, rural-urban migration, break-down of social values and joint family system, atrocities and abuses by parents or guardians, faulty educational system, the influence of media besides the unhealthy living conditions of slums and such other conditions explain the phenomena of juvenile delinquency. The neglect of children by their parents, family, society and the nation create detrimental effect on their physical, mental growth and over all development. Needless to say that most of the factors causing delinquency are in plenty in the Indian context and any attempt to prevent and control them can be fruitful for society. After all, the children represent the nation and the coming future of the country. Even international instance like UN Standard Minimum Rules for the Administration of Juvenile Justice, also known as Beijing Rules, 1985 and UN Convention on the Rights of Child, 1989, are notable and has articulated the global consensus on giving special attention to the children who come in conflict with law.

There is a general attitude towards children to behave obediently, show respect towards others and imbibe behaviour having high moral values but due to various circumstances children are being diverted from social and general command. The word juvenile originates from a Latin word “juvenis” meaning young. A juvenile or a child means a person who has not completed eighteen years of age. Recently, juvenile delinquency has become an important aspect of criminology. Juveniles have got serious forms of delinquent behavior which may hamper the stability and social command of our society. **Beijing Rules, Rule 2.2 (a)** defines juvenile as: A juvenile is a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult;

The word “delinquency” has its origin from the Latin word “delinquere” which meaning **de** i.e. “away and linquere” i.e. “to leave thus, mean by to leave or to abandon”. Initially, the word was having primarily meaning and applied to those parents who have abandoned and neglected their children. Now days, it is applicable on all those children who are involved in illegal and harmful activities. A juvenile and a minor are used in different perspective in legal terms. The term juvenile is generally used in reference to a young criminal offender and minor is related to legal capacity of a person.

Historical Overview of Juvenile Justice

Laws and legal procedures relating to juvenile offenders have a long history, dating back thousands of years. The Code of Hammurabi some 4,000 years ago (2270 B.C.) included reference to runaways, children who disobeyed their parents, and sons who cursed their fathers. Roman civil law and canon (church) law 2,000 years ago distinguished between juveniles and adults based upon the idea of “age of responsibility.” In early Jewish law, the Talmud set forth conditions under which immaturity was to be considered in imposing punishment. Muslim law also called for leniency in punishing youthful offenders, and children under the age of 17 were to be exempt from the death penalty (Bernard,1992).

Under fifth-century Roman law, children under the age of 7 were classified as infants and not held criminally responsible. Youth approaching the age of puberty who knew the difference between right and wrong were held accountable. The legal age of puberty (age 14 for boys and 12 for girls) was the age at which youth were assumed to know the difference between right and wrong and were held criminally accountable. Anglo-Saxon common law that dates back to the 11th and 12th centuries in England was influenced by Roman civil law and canon law. This has particular significance for American juvenile justice because it has its roots in English common law. The Chancery courts in 15th-century England were created to consider petitions of those in need of aid or intervention, generally women and children, who were in need of assistance because of abandonment, divorce, or death of a spouse. Through these courts the king could exercise the right of *parens patriae* (“parent of the country”), and the courts acted in *loco parentis* (“in place of the parents”) to provide services in assistance to needy women and children. The principle of *parens patriae* later became a basis for the juvenile court in America. The doctrine gives the court authority over juveniles in need of guidance and protection, and the state may then act in *loco parentis* (in place of the parents) to provide guidance and make decisions concerning the best interests of the child. In 1704 it was Pope Clement XI, who first introduced the idea of “the correction and instruction of profligate youth in institutional treatment”. Subsequently Elizabeth Fry and her associates allocated resources to establish separate reformatory homes for juvenile offenders. Consequently, in Britain Reformatory Schools Act and Industrial Schools Acts were brought on statute book. Special courts established for juveniles were initiated for the first time in 1847, in United States of America. However, the first „Juvenile Court“ could be established in 1899, in Chicago under Juveniles Offenders Act. And in 1905 the first Juvenile court was set up in England. The term “Juvenile justice” was used for the first time by the legislature by the state of Illinois, USA, in 1899, while passing the Juvenile Court Act. The approach under laying this law was that juvenile offenders should not be dispensed out the same punitive and retaliatory treatment as adults but rather given individual attention for their own protection as well as that of the society.

International Declarations and Conventions

In 1924, the League of Nations (LON) adopted the Geneva Declaration, a historic document that recognised and affirmed for the first time the existence of rights specific to children and the responsibility of adults towards children. **The 1924 Geneva Declaration** stated that humanity “owes to the Child the best that it has to give.” “In simple terms, (there is in fact no reference to rights as such) the Declaration points out adults’ obligations to children.” The United Nations (UN) was founded after World War II. It took over the Geneva Declaration in 1946. However, following the adoption of the Universal Declaration of Human Rights in 1948, the advancement of rights revealed the shortcomings of the Geneva

Declaration, which therefore had to be expanded. “Several [UN] Member States were calling for a convention, that is, an international tool that would legally bind the States that had ratified it, but this proposal was not adopted.” They thus chose to draft a second Declaration of the Rights of the Child, which again addressed the notion that “mankind owes to the Child the best that it has to give.” On 20 November 1959, the Declaration of the Rights of the Child was adopted unanimously by all 78 Member States of the United Nations General Assembly. (Resolution 1386 (XIV).) However, neither the 1924 Geneva Declaration nor **the 1959 Declaration of the Rights of the Child** define when childhood starts and ends, mainly to avoid taking a stand on abortion. Nonetheless, the Preamble to the Declaration of the Rights of the Child highlights children’s need for special care and protection, “including appropriate legal protection, before as well as after birth.” The Declaration of the Rights of the Child lays down ten principles i.e. the right to:

1. Equality, without distinction on account of race, religion or national origin.
2. Special protection for the child’s physical, mental and social development.
3. A name and a nationality.
4. Adequate nutrition, housing and medical services.
5. Special education and treatment when a child is physically or mentally handicapped.
6. Understanding and love by parents and society.
7. Recreational activities and free education.
8. Be among the first to receive relief in all circumstances.
9. Protection against all forms of neglect, cruelty and exploitation.
10. Be brought up in a spirit of understanding, tolerance, friendship among peoples, and universal brotherhood.

Some other international instruments available on juvenile justice' like the United Nations Standard Minimum Rules for the Administration of Juvenile Justice 1985 - The Beijing Rules, the United Nations Guidelines for the Prevention of Juvenile Delinquency 1990-The Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty 1990 along with the provision in respect of children in conflict with law as envisaged under the United Nations Convention on the Rights of the Child are worth to mention. These instruments are the child focused norms currently regulating juvenile justice as minimum international standard.

The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana 1990) gave birth to two important resolutions related to the phenomenon of juvenile delinquency; they are Guidelines for the Prevention of Juvenile Delinquency, (Resolution 45/112). Rules for the protection of Youngsters Deprived of their Liberty. (Resolution 45/113). Both resolutions complement the previously adopted Standard Minimum Rules for the Administration of juvenile Justice (1985). While in the present context the above Guidelines and Convention enumerate the framework for juvenile justice, relevant international standards have existed for several decades. The Standard Minimum Rules for the Treatment of Prisoners, 1955, themselves inspired by standards endorsed by the League of Nations in 1934, already set out the principle of separation of young prisoners from adults in custodial facilities and for adults and juvenile alike, the separation of accused and convicted detainees. The 1966 International Covenant on Civil and Political Rights (ICCPR) reiterates this principles in the form of hard law as well as prohibiting the death penalty for person found guilty of a crime committed when they were under the age of 18 (Article 6.5 of ICCPR). The Covenant consisted of safeguards for all persons

brought to trial and detained, and specifically states that in case of juvenile persons the court procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation (Article 14.4 of ICCPR). 243 (Innocenti Digest 3, January 1998, Juvenile Justice, page-2, UNICEF International Child Development Centre, Italy.)

The United Nations General Assembly (hereinafter the UN GA), on 20th November, 1989 adopted the **Convention on the Rights of Child (hereinafter the CRC)**. This Convention prescribed a standard set to be followed by all the member nations. It insists on social re-integration of child victims and on the part of state parties to secure the best interest of child.

Developments in India

The Juvenile Justice System in India originated during the British rule and was the direct consequence of western ideas and developments in the field of prison reforms and juvenile justice. The changes introduced by British in India to deal with delinquent juveniles, were not confined only to those practiced in England. The juvenile court established under the Madras Children Act, 1920 and the English Children Act, 1908 were not different from each other. But subsequent Children Acts dispensed with the presence of lawyers on the lines of the *parens-patriae* model of the American juvenile courts. The juvenile welfare boards, adopted by the Scandinavian countries became an integral part of the legislations dealing with delinquent and neglected children since 1960.

The Apprentices Act, 1850 was the first legislation that laid the foundation of juvenile justice system in the India. Subsequently the concept of juvenile justice gained momentum with the passing of the Indian Penal Code -1860, Reformatory Schools Act -1897, and recommendations made by the Indian Jail Committee (1919-1920), which firmly suggested that the juvenile offender should be treated in a different way from an adult offender and the detention of juvenile offenders should be prohibited and recommended the provision of reformatory schools and constitution of juvenile courts with procedures as informal and elastic as much as possible. The "Madras Children Act 1920" was the first Children Act to be enacted which was narrowly followed by Bengal and Bombay in 1922 and 1924, respectively. And after that many states enacted their own Children laws, covering the two categories of children, as follows (a) delinquent children, and (b) neglected children and these two categories of children are handled by the juvenile courts. These children were to be kept in rehabilitative and remand homes or can be released on their good character, with a possibility of imprisonment when the nature of offence was serious and the character of the offender so depraved as to justify imprisonment. At this point of time, by and large, the "welfare" approach was adopted for children whether they are delinquent or neglected.

In India, before passing of the Children Act, 1960 there was no consistency regarding age limit of juvenile delinquent. *Bombay Children Act 1948 defined "Child" – "means a boy who has not completed the age of 16 years or girl who has not completed the age of 18 years".*

The U.P. Children Act defined *"Child" – "as a person under the age of 16 years". Under the A.P. Children Act 1920 "Child" means "a person under 14 years and when used to reference to sent to certified school applies to that child during while period of detention notwithstanding that the child attains the age of 14 years before expiration of that period".*

The Saurashtra and West Bengal defines *“a Child as a person who has not attained the age of 18 years”*. Haryana Children Act has also maintained this difference in defining *“child as a boy who has not attained the age of 16 years and a girl who has not attained age of 18 years”*.

Juvenile Justice Act, 1986 defines *“a juvenile or child, who in case of a boy has not completed age of 16 years and in case of a girl 18 years of age”*. Government of India while discharging its international obligations revoked the JJA Act, 1986 by 2015 Act and the distinction regarding the age between male and female juveniles was done away.

According to the new law, age of juvenile for both male and female involved in conflict with law has been fixed at 18 years. *A juvenile in conflict with law under the JJ (C & P) Act, 2000 is “a juvenile who is alleged to have committed an offence but has not completed 18 years of age on the date of commission of said offence”*.

And under the Juvenile Justice (Care and Protection) Act 2015 juvenile defined under section. 2 (35), *“juvenile means a child below the age of eighteen years”*.

Delinquency is unwelcomed action, omission or moral behaviour of a juvenile which is socially not permitted in any society. Generally it means that if the child fails to meet certain social obligations anticipated from them by the people, then he is considered to be delinquent.

The universal meaning of the word *„Delinquency“ is something not correct, which is against the social norms of a society.* Juvenile Delinquency is a legal term that was first defined in 1889, when Illinois passed the first law on Juvenile Delinquency: since then every state has passed the delinquency laws.

India has a long history of Juvenile legislation; most of the legislative provisions have followed, more or less, the British law pattern. The British law providing separate provisions for juvenile offenders was passed on to India in the last quarter of the nineteenth century. Chronologically “The Apprentices Act, 1850” was the first law to deal with the children in distresses that are to be trained for trade and commerce.

According to the Indian Penal Code 1860 children under the age of seven years are exempted from criminal responsibility(Section 82 of IPC).It also exempts children between the age of seven to twelve years, who have not attained sufficient maturity to understand the nature and consequences of their own immoral act and conduct, from criminal responsibility(Section 83 of IPC) The IPC Act also provides protection to the children from the evil designs of adults.(Section 363A IPC).

The Reformatory School Act was enacted in the year 1876 and later the Act again modified in 1897, was considered the landmark legislation in the treatment of juvenile delinquents. It empowered the governments to establish reformatory schools. According to this Act, the court could keep in custody juvenile in such institutions for a time period of two to seven years but after attained the age of 18 years they would not be kept in the reformatory schools. There was also a provision to provide suitable employment to juvenile who cross over the age of fourteen years. The Criminal Code also visualizes the commitment of juvenile offender up-to the age of fourteen years to Reformatory Schools and provided probation on good conduct up-to the age of twenty one years. Consequently Indian children Acts passed by the Presidencies and provinces also maintained this thinking. These enactments had provisions for the establishment of a specialized mechanism for the handling and treatment of children/juveniles. And in

this regard, recommendations of the Indian Jails Committee 1919-20, gave an additional momentum to legislative action. In the post independence period; the Government of India understands the problems of juvenile, and in this regard government take step for juvenile justice particularly and apply law in the centrally administered union territories i.e the Children Act 1960. The law was in to force in all the UTs, but the states were not having juvenile legislation but the state were free to adopt it. At this stage, juvenile justice in the country was not uniform because each state had its own standards, norms and practices. These problems were sought to be removed by passing the Juvenile Justice Act 1986. On the other hand, the concepts of juvenile justice was undergoing through various basic changes, as it is indicated by the Beijing Rules and the UN Convention on Rights of the Children. This led to the formulation of the Juvenile Justice (Care and Protection of Children) Act, 2000, which was comprehensive amended in 2006 by Act No.33 of 2006. And again in 2012 the introduction of new amended law gained momentum because of the dark memories evoked by the Nirbhaya case (Delhi gang rape case) where the Delhi police disclose the fact that the most brutal attack on the victim came from the juvenile offender who succeeded in escaping the death sentence only because he was a juvenile. Minister of Women and Child Development Maneka Gandhi, dipping into this groundswell of anger, has warned unilaterally that “an adult crime by a juvenile requires adult punishment, not leniency”. Delhi gang rape case was an example that should be taken into consideration by the official to immediate carryout amendments in the definition of juvenile and insert necessary exceptions which would cover the fact and circumstances of that case and which include gravity and heinousness involved in that particular case along with the level maturity and understanding of the offence by the juvenile concerned. Now there is a need to bring some reforms in the juvenile laws as there is an increase in serious crimes involving children of 16 to 18 years of age and they are well abide by the fact that below 18 years is the gateway pass for them from the criminal prosecution. So, The Juvenile Justice (Care and Protection of Children) Bill, 2015 was passed by Lok Sabha on 7th May, 2015; was passed by Rajya Sabha on 22nd December, 2015 and after receiving Presidential assent it become “The Juvenile Justice (Care and Protection of Children) Act, 2015” and came into force in whole India except Jammu and Kashmir from 31st December, 2015 .

The Children Act 1960:

Though the Act, was applicable only to the U.Ts but it was a model to be followed by the states in the enactment of their own Children Acts. The Children Act 1960, provided the care, protection, welfare, education and rehabilitation of neglected and delinquent children. For the first time in India, any Act strictly prohibited the detention of children in jail under any circumstances. It provided for separate legal bodies to deal with delinquent children are the children court and a child welfare board. The Act introduced a system of three-tier institutions, firstly, an observation home for children who stay during the pendency of their proceedings, secondly, children’s home for accommodating neglected children, third and lastly, a special school for delinquent children. However, it introduced a sex discriminatory definition of child, “Child in case of a boy is below sixteen years and in case of a girl is below eighteen years of age”. However, all states consequently passed or adopt the similar Children Acts but the definition of the „child“ differed from state to state. So, the delinquent and neglected children were subjected to different treatment in different states.

Juvenile Justice Act 1986 :

The necessity for a uniform or standardize Children Act across the country paved the way for the enactment of the Juvenile Justice Act (JJA) 1986. It promoted “the best interest of the juveniles” by incorporating the important provision of the Indian Constitution and the 1974 National Policy Resolution for Children and also add the universally agreed principles for the protection of juveniles such as the “United Nations Declaration of the Rights of the Child 1959” and the “United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985”. The detention of juveniles in police lock-up or jail abolished by this Juvenile Justice Act 1986. It specifies two main authorities, a Juvenile Welfare Board and a Juvenile Court, to deal with delinquent juveniles. It also recommended to establish various kinds of institutions for the care and protection of juveniles, a juvenile home for the treatment of neglected juveniles, a special home for delinquent juveniles and an observation home for the temporary reception of juveniles during the pendency of their trial, and an after-care home for the purpose of taking care of juveniles after discharge from a observation home or a special home. The main objective to adopt these different approaches was to protect/save juvenile from criminalization, penalization and stigmatization. With the enactment of the JJA, the “welfare” approach gave way to the “justice”. But while implementation of the JJA-1986 various loopholes were experienced like in terms of age determination, separate trials, court proceedings, notification of charges to parents or guardians, filing of reports by probation officer, rehabilitation and after care of juveniles. Juvenile who stays or kept in government run institutions, did not know the purpose of their stay. In addition, the states and union territories who had formulate their regulations for the implementation of the Juvenile justice Act were not according to the basic structure of Juvenile Welfare Boards, Observation Homes, Juvenile Courts and After-Care Homes. Hardly any required measures are taken for adherence of minimum standards for institutional care such as foster care, sponsorship, adoption, etc. The controversy between the reality and the implementation of the law was felt all with the adoption of the “Convention on the Rights of the Child (CRC) 1989” and it was ratified by the Government of India in 1992. The provisions of the CRC with regard to children in conflict with law were augmented in two other United Nations instruments, firstly “the United Nations Guidelines for the Administration of 79 Juvenile Delinquency (Riyadh Guidelines)” and the second “United Nations Rules for the Protection of Juveniles Deprived of their Liberty (JDL Rules)”. Both provided detailed information about the processes to be followed by the juvenile justice system in dealing with persons below the age of 18 years. The 1993 World Conference on Human Rights held in Vienna and the successive adoption of Vienna Declaration and Programme of Action which urged States to ratify and implement promptly the CRC which made a definitive impact on all those concerned with the dilemma of these children in India including the government.

Juvenile Justice (Care & Protection of Children) Act 2000:

After taking experiences from all the past developments, the government modifies the Juvenile Justice Act to make it in coherence with the CRC and a new Act came into force in 2000 named “Juvenile Justice (Care & Protection of Children) Act 2000”. The enactment of this Act endorsed the “justice” as well as the “rights” approach towards children and moreover made use of a better terminology as “juveniles in conflict with law” and “children in need of care and protection”. This separation aims to restrain the awful influence on the child who is in need of care and protection from the one who is in conflict with law. The Juvenile Justice Act 2000 brings uniform definition of a „juvenile“ or a „child“ throughout the country except in the State of Jammu & Kashmir. “A „juvenile“ or „child“ is a person who has not completed

eighteenth year of age”. Juveniles in conflict with law consist of all those children alleged or found to have committed an offence. Juvenile in conflict with law are to be handled by the Juvenile Justice Board and juveniles in need of care and protection deal by child welfare committee. While dealing with juveniles and adolescents it also gave advice to their parents how they prevent their children from delinquency and also arrange counseling for them. It also introduced a broad choice of community programme options for juveniles. 80 The JJ Act 2000, though passed with good intentions but it also ignored the insertion of certain substantive and procedural process.

Juvenile Justice (Care and Protection of Children) (Amendment) Act 2006:

Juvenile Justice Act 2000 was amended in 2006 to make it clearer that juvenility would be considered from the “date of commission of offence” who have not completed the age of 18 years thus clarifying ambiguities raised in *Arnit Das v. State of Bihar* [(2000) 5 SCC 488]. In amended Act it was also clear that under any conditions, a juvenile in conflict with law should not be kept in a police lockup or jail. Further it also specify that the CJM or the CMM has every right to review the pendency of cases in the Board at every six months, and the child protection units should be set up in each and every states and districts to check the implementation of the Act.

Juvenile Justice (Care and Protection of Children) Act 2015:

The Juvenile Justice (Care and Protection of Children) Bill, 2015 was passed by Lok Sabha on 7th May, 2015; was passed by Rajya Sabha on 22nd December, 2015 and received Presidential assent and came into force on 31st December 2015, to whole India except the state of Jammu and Kashmir¹³ .

The JJ (C&P) Act, 2015 provides for strengthened provisions for both children in need of care and protection and children in conflict with law. And in the new Act some important and many new definitions also included such as orphaned, abandoned and surrendered children; and petty, serious and heinous offences committed by children; clarity in powers, function and responsibilities of Juvenile Justice Board (JJB) and Child Welfare Committee (CWC); clear the timelines for inquiry by Juvenile Justice Board (JJB); special provisions for serious offences committed by children above the age of sixteen year and also included a new chapter on Adoption to streamline adoption of orphan, abandoned and surrendered children; inclusion of new offences committed against children; and mandatory registration of Child Care Institutions.

Some important definitions under JJ Act- 1986.

2(e) ‘Delinquent juvenile’ means a juvenile who has been found to have committed an offence ;
(Juvenile in conflict with law under 2000 Act).

2(h) ‘Juvenile’ means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years ; **(Child or Juvenile under 2000 Act).**

2(l) Neglected juvenile: means a juvenile who **(Child in need of care & protection under 2000 Act)**

(i) Is found begging ; or

- (ii) Is found without having any home or settled place of abode and without any ostensible means of subsistence and is destitute ; or
- (iii) Has a parent or guardian who is unfit or incapacitated to exercise control over the juvenile ; or
- (iv) Lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution, or is found to associate with any prostitute or any other person who leads an immoral, drunken or depraved life ; or
- (v) Who is being or is likely to be abused or exploited for immoral or illegal purposes or unconscionable gain.

2(b) Board: means a Juvenile Welfare Board constituted under section 4; (CWC under 2000 Act)

2(i) Juvenile Court: means a court constituted under section 5; (Juvenile Justice Board under 2000Act).

Comparison of certain definitions under JJ Act 2000 and JJC&P Act 2015.

| THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000 | THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)ACT, 2015 |
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| <p>Section 2(k). "juvenile" or "child" means a person who has not completed eighteenth year of age;</p> <p>2(l) "juvenile in conflict with law" means a juvenile who is alleged to have committed an offence;</p> <p>"juvenile in conflict with law" means a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence.(section 4(iv)Amendment Act 2006)</p> <p>2(d) "child in need of care and protection" means a child –</p> <p>(i) who is found without any home or settled place or abode and without any ostensible means of subsistence,</p> | <p>Section 2(12) Child: means a person who has not completed eighteen years of age.</p> <p>Section 2(35) Juvenile means a child below the age of eighteen years.</p> <p>2(13) Child in Conflict with Law: means a juvenile who is alleged to have committed an offence and has not completed eighteen years of age on the date of commission of such offence.</p> <p>2 (14)Children in need of care and protection: means a child,--</p> <p>(i) who is found without any home or settled place or abode and without any ostensible means of subsistence;</p> <p>(ii) includes a child who is found working in contravention of labour laws for the time being in force</p> |

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| <p>ii. who resides with a person (whether a guardian of the child or not) and such person-</p> <p>a. has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out, or</p> <p>b. has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person,</p> <p>iii. who is mentally or physically challenged or ill children or children suffering from terminal diseases or incurable diseases having no one to support or look after,</p> <p>iv. who has a parent or guardian and such parent or guardian is unfit or incapacitated to exercise control over the child,</p> <p>v. who does not have parent and no one is willing to take care of or whose parents have abandoned him or who is missing and run away child and whose parents cannot be found after reasonable inquiry,</p> <p>vi. who is being or is likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts,</p> <p>vii. who is found vulnerable and is likely to be inducted into drug abuse or trafficking,</p> <p>viii. who is being or is likely to be abused for unconscionable gains,</p> <p>ix. who is victim of any armed conflict, civil commotion or natural calamity;</p> | <p>or is found begging, or living on the street;</p> <p>(iii) who resides with a person (whether a guardian of the child or not) and such person—</p> <p>(a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child;</p> <p>(a) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or</p> <p>(b) has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited, or neglected by that person.</p> <p>(iv) Who is mentally ill or mentally or physically challenged or suffering from terminal or incurable diseases having no one to support or look after or having a parents or guardians unfit to take care, if found so by the Board or Committee.</p> <p>(v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and wellbeing of the child.</p> <p>(vi) who does not have parent and no one is willing to take care of, or whose parents have abandoned or surrendered him.</p> <p>(vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed;</p> <p>(viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts;</p> <p>(ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking;</p> |
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| <p>2(c)Board: means a Juvenile Justice Board constituted under section 4;</p> <p>2(o) Observation Home: means a home established by a State Government or by a voluntary organisation and certified by that State Government under section 8 as an observation home for the juvenile in conflict with law;</p> <p>2(v) Special Home: means an institution established by a State Government or by a voluntary organisation and certified by that Government under section 9;</p> <p>2(f) Committee: means a Child Welfare Committee constituted under section 29;</p> <p>2(e) Children's Home: means an institution established by a State Government or by voluntary organisation and certified by that Government under section 34;</p> | <p>(x) who is being or is likely to be abused for unconscionable gains;</p> <p>(xi) who is victim of any armed conflict, civil unrest or natural calamity.</p> <p>(xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents family members, guardian and any other persons are likely to be responsible for solemnization of such marriage;</p> <p>2(10) Board: means a Juvenile Justice Board constituted under section 4.</p> <p>2(40) 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, and is registered as such, for the purposes specified in section 47(1).</p> <p>2(56) 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 rehabilitation services to the 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.</p> <p>2(22) Committee: means Child Welfare Committee constituted under section 27;</p> <p>2(19) Children's home: means a Childrens Home, established or maintained in every district or a group of districts by the State Government, either by itself, or through a voluntary or non-governmental organization, and is registered as such for the purposes specified in section 50.</p> |
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| <p>2(u) Shelter Home: means a home or a drop-in-centre set up under section 37;</p> <p>2(h) Fit Institution: means a governmental or a registered non-governmental organisation or a voluntary organisation prepared to own the responsibility of a child and such organisation is found fit by the competent authority;</p> <p>2(i) Fit Person: means a person, being a social worker or any other person, who is prepared to own the responsibility of a child and is found fit by the competent authority to receive and take care of the child;</p> <p>2(g) Competent Authority means in relation to children in need of care and protection a Committee and in relation to juveniles in conflict with law a Board;</p> | <p>2(41) 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 under section 43(1), and registered as such for the purposes specified in that section.</p> <p>27) Fit Facility: means a facility being run by a governmental organisation or a registered voluntary or non-governmental organisation, prepared to temporarily own the responsibility of a particular child for a specific purpose, and such facility is recognised as fit for the said purpose, by the Committee, as the case may be, or the Board, under sub-section (1) of section 51;4 of 2006.32 of 2012.</p> <p>2(28) 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 recognised 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</p> <p>2(2) Adoption: means –The process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities that are attached to a biological child.</p> |
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JUVENILE IN CONFLICT WITH LAW

In general it is accepted that early-phase intervention is the finest approach to preventing juvenile delinquency. In this process first we must categorize such juveniles and subsequently provide them treatment. Prevention requires individual, group and organizational efforts to keeping away juveniles from violating the law. And it can be achieved through the economic development, professional training programs, educations are the measures to prevent the juvenile from involvement in criminal and illegal activities. In application of Juvenile Justice Act, it is very important for the authorities first to get involved in the Juvenile justice system and construct effectual partnership with society. NGO and local communities' involvement can also help in preventing the Juvenile delinquency. Government should give importance to effective, beneficial and long-term programs for juveniles so that they can get back their self confidence and feel motivated to join main stream of the society¹.

*Juvenile Justice Act was enacted with a laudable object of providing a separate forum or a special court for holding trial of children/juvenile by the juvenile court as it was felt that children become delinquent by force of circumstance and not by choice and hence they need to be treated with care and sensitivity while dealing and trying cases involving criminal offence. But when an accused is alleged to have committed a heinous offence like rape and murder or any other grave offence when he ceased to be a child on attaining the age of 18 years, but seeks protection of the Juvenile Justice Act under the ostensible plea of being a minor, should such an accused be allowed to be tried by a juvenile court or should he be referred to a competent court of criminal jurisdiction where the trial of other adult persons are held.*²

'Juvenile in Conflict with Law' is a term given to boys or girls who have allegedly committed "offences" or crime and are below eighteen years of age. Crime is legally defined as a violation of law. These offences would be acts or behaviour that would constitute a 'crime' in the Indian Penal Code, 1860 (IPC) or any other law and applies equally to both juvenile and adult offenders. Both get apprehended under the same offence charge. The point of departure is the procedures that follow if the person apprehended is less than eighteen years of age. Special courts (Juvenile Justice Board) and special provisions (Juvenile Justice System) have been created for children who commit offences. The entire mechanism governing the Juvenile Justice System emphasizes on rehabilitation and social reintegration

The definition given in the Children Act, 1960 of Juvenile Delinquency³, is a Child³ who has been found to have committed an offence⁴. In the Juvenile Justice (Care and Protection of Children) Act, 2000, the term *delinquent juvenile*, used in earlier Juvenile Justice Act, 1986, has been substituted by the words juvenile in conflict with law means a juvenile who is alleged to have committed an offence.⁵ It is therefore, obvious that every conduct prohibited by statute is not to be taken as an act of delinquency. Instead, the conduct which tends to constitute an offence, not only from the legal standpoint but also from the angle of social norms and values will be included within the meaning of the term

1 . International Journal of Interdisciplinary and Multidisciplinary Studies (IJIMS), 2014, Vol 1, No.6, 64-70. 70

2 . *Om Prakash v. State of Rajasthan and another* (2012)5 SCC 201)

3 . Section 2(e) The Children Act-1960, defines child as:(e) "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;

4 . Section 2(j),The Children Act-1960 [Act No. 60 of 1960 dated 26th. December, 1960].

5 . Section 2(l), The Juvenile Justice (Care and Protection of Children) Act, 2000.

delinquency. In the Juvenile Justice (Care and Protection of Children) Act, 2015, the term *juvenile in conflict with law*, used in earlier Juvenile Justice (Care and Protection of Children) Act, 2000 has been substituted by the words, *child in conflict with law*, means a juvenile who is alleged to have committed an offence and has not completed eighteen years of age on the date of commission of such offence.⁶

Determination of Age

Section 49(1) of the Juvenile Justice Act, 2000 and section 94 of the Juvenile Justice (C&P) Act 2015 confers the power on competent authority or Board to determine whether the person brought before it is a child or not. The following evidences are taken into consideration for the process of age determination i.e the date of birth certificate from the school or the matriculation certificate from the concerned examination board, birth certificate issued by any competent authority and if any of the above evidences are not available then the age shall be determined by ossification test or any other medical test.⁷ wherever medical opinion is required for age determination purposes, it shall be sought from a duly constituted Medical Board, all government hospitals shall constitute a Medical Board on a permanent basis for the said purpose comprising of a radiologist, a dentist and a general physician and maintain a roster of doctors who would be available on a daily basis for discharging the duties of the Medical Board. The Medical Board shall give its report within fifteen days of the order of the Board or the Court or the Committee.⁸ The range of the age of the child provided by the Medical Board shall be considered by the Court or the Board or the Committee on the lower side and, may record reasons for the same to give benefit to the child within the margin of one year.⁹ According to Act there are two ways to determine age of any delinquent person, first is documentary evidence provided by him or by medical (Examination) evidenced. The Supreme Court held “that the age as ascertained or determined by medical examination is not conclusive proof of age of a person. It is mere opinion of the doctor and there is a margin of 2 years could be on either side”.¹⁰ In another leading case, *Bhoop Ram v. State of UP*,¹¹ the apex court held “that in case of conflict between documentary evidence and medical report, the documentary evidence will be considered to be correct”. This leads to the conclusion that it needs to produce documentary evidence to determine the age of any delinquent. Now one more concern arises here because to get the document forged is the easiest things in our country. Even we cannot rely on medical examination alone because it was also held not to be hundred percent conclusive proof by medical practitioners. The Supreme court in *Bablu Passi v. State of Jharkhand*¹² held that no fixed norm had been laid down by the Act for the age determination of a person and the plea of the juvenile must be judged strictly on its own merit. The medical evidence as to the age of a person is a very useful guiding factor but it is not conclusive proof and has to be considered along with other cogent evidence. Apart from the determination of age, the question of the date from when the age has to be taken into account has also been a matter of controversy. In *Umesh Chandra. v. State of Rajasthan*,¹³ it was held that “it is the date of the offence that has to be

6 . Section 2(13), The Juvenile Justice (Care and Protection of Children) Act, 2015.

7 . Rule 12, The Juvenile Justice (Care and Protection of Children) Rules, 2007. Rule 12 of The Juvenile Justice(Care and Protection of Children) Rules, 2016.

8 . Rule 12(3), The Juvenile Justice (Care and Protection of Children) Rules, 2016.

9 . Rule 12(4), Ibid.

10 . *Jaya Mala v. Home Secretary, Government of Jammu and Kashmir & Ors* AIR 1982 SC 1297.

11 . [(1989) 3 SCC 1 : 1989 SCC (Cri) 486].

12 . 2008(13) SCC 133: 2009(3) SCC(Cri)266:(2008) 13 scale 137.

13 . 1982 SCC (Cri) 396 : AIR 1982 SC 1057.

considered". *Arnit Das v. State of Bihar*¹⁴ overruled the judgment saying that the date of commission of offence is irrelevant and it is the date of bringing the accused in the court that has to be taken into account. This was again overruled in *Pratap Singh v. State of Jharkhand*¹⁵ where the court held that the reckoning date for the determination of the age of the juvenile is the date of an offence and not the date when he is produced before the authority or in the Court.

Procedure to Deal with the Juvenile In Conflict With Law

The competent authority to deal with "juvenile in conflict with law" is the juvenile justice board (Board) and "children in need of care and protection" is the child welfare committee. The Board shall consist of a magistrate and two social workers, one whom shall be a woman. The Principal Magistrate should have special knowledge or training in child psychology and child welfare and the social worker are required to have been actively involved in health education or welfare activity pertaining to the children for at least 7 years and should have post graduate degree in social work, health education, psychology, child development or any other social science discipline. The constitution of the Board under the JJ (C&P) Act differs significantly from the juvenile court under the JJA. The two social workers, who were required to assist the magistrate under the JJA, have now been made part of the Board.¹⁶ This provision, if implemented in letter and spirit, has the potential to convert the legal and technical nature of the proceedings of the Board into care and welfare proceedings. The presence of the magistrate is essential for final disposition of the case, but the case itself is to be decided by majority. In essence, it means that the opinion of the two social workers together shall prevail over the opinion of the magistrate. It is essential, therefore, that the two social workers actually be appointed to the Board. Both of them should also ensure their presence on the date of final disposal in every case to give effect to this significant change in the approach of the JJ (C&P) Act.

The JJ (C&P) Act 2000 and rules made there under in 2007 provide that all inquiries under the JJ(C&P) Act should be completed within a period of four months extendable by two months in serious offences.¹⁷ In case of petty offences punishable with fine up to 1000/- only, the police may dispose of the case at the police station itself. In case of non-serious offences punishable with imprisonment up to seven years juvenile can be apprehended only if it is necessary in the interest of juvenile and in case of serious offence punishable with imprisonment for more than seven years, a juvenile can be apprehended. However, he cannot be handcuffed, chained and fettered. No FIR or charge sheet is required in case of non-serious offence and the police may record the information only in their general diary. A social background report, circumstances of apprehension and offence however, are required to be submitted to the board before first hearing. The competent authority has to follow the summons procedure in juvenile case. No appeal lies against a finding that the child did not need any state care or had not committed an offence. In other cases, one appeal lies to the court of sessions and the High Court may exercise its power of revision in any case. To take charge of children covered under the JJ (C&P) Act, 2000 namely, a wide range of person, namely, the police, public servants, non-governmental organizations, authorized individuals or the children themselves has been authorised under the Act. There has been a significant change in the role and responsibility of the police. Each police station is now required to have at least one police officer

14 . (2000) 5 SCC 488.

15 . (2005) 3 SCC 551.

16 . Section 4(2) the JJ (C&P) Act.2000.

17 . Rule 13(7) the Juvenile Justice (Care and Protection of Children) Rules, 2007.

specially trained to deal with children in conflict with law as well as those in need of care and protection. All such police officers will constitute the special juvenile unit in each district. Implementation of this provision goes to the root of the functioning of the JJ(C&P) Act,2000. The prohibition of keeping children in a police station under any circumstance under the Juvenile Justice Act has been substituted by prohibition against keeping them in the police lock-up only. No provision bars the keeping of even girls taken charge of under the Act in a police station and this may lead to many problems especially regarding the security of young girls so kept.

4. Juvenile Justice Board.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the State Government may, by notification in the Official Gazette, constitute for a district or a group of districts specified in the notification, one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such Boards in relation to juveniles in conflict with law under this act.

(2) A Board shall consist of

a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, and

two social workers of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974), on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class and the Magistrate on the Board shall be designated as the principal Magistrate.

(3) No Magistrate shall be appointed as a member of the Board unless he has special knowledge or training in child psychology or child welfare¹⁸ and

no social worker shall be appointed as a member of the Board unless

he has been actively involved in health, education, or welfare activities pertaining to children for at least seven years.

(4) The term of office of the members of the Board and the manner in which such member may resign shall be such as may be prescribed.¹⁹

(5) The appointment of any member of the Board may be terminated after holding inquiry, by the State Government, if –

18 . Rule 5(3)(ii) the Juvenile Justice (Care and Protection of Children) Rules, 2007. In case the Principal Magistrate with such special knowledge or training is not available, then, the State Government shall provide for such short-term training in child psychology or child welfare as it considers necessary.

Rule 3(1) the Juvenile Justice (Care and Protection of Children) Rules, 2016. A Magistrate with requisite experience of at least three years shall be designated as the Principal Magistrate of the Board and before taking charge as the Principal Magistrate of the Board, he shall undergo training as provided under Rule 121 of these rules.

19 . Rule 6. (1) the Juvenile Justice (Care and Protection of Children) Rules, 2007, The Board shall have a tenure of three years and the appointment of members shall be co-terminus with the tenure of the Board. (4) A member may resign any time, by giving one month's advance notice in writing or may be removed from his office as provided in sub-section (5) of section 4 of the Act.

Rule 4(1) the Juvenile Justice (Care and Protection of Children) Rules, 2016, The members of the Board shall be appointed for a period of three years from the date of their appointment. (4) The Members may resign at any time by giving one month's notice in writing to the State Government.

- i. he has been found guilty of misuse of power vested under this act,
- ii. he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence,
- iii. he fails to attend the proceedings of the Board for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

5. Procedure, etc. in relation to Board.-

(1) The Board shall meet at such times and shall, observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.²⁰

(2) A child in conflict with law may be produced before an individual member of the Board, when the Board is not sitting.

(3) A Board may act notwithstanding the absence of any member of the Board, and no order made by the Board shall be invalid by reason only of the absence of any member during any stage of proceedings:

Provided that there shall be at least two members including the principal Magistrate present at the time of final disposal of the case.

(4) In the event of any difference of opinion among the members of the Board in the interim or final disposition, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the principal Magistrate, shall prevail.

6. Powers of Juvenile Justice Board.- (1) Where a Board has been constituted for any district or a group of districts, such Board shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have power to deal exclusively with all proceedings under this Act, relating to juvenile in conflict with law.

(2) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Court of Session, when the proceedings comes before them in appeal, revision or otherwise.

20 . The Juvenile Justice (Care and Protection of Children) Rules, 2007, Rule 9. Sittings of the Board.— (1) The Board shall hold its sittings in the premises of an Observation Home or, at a place in proximity to the observation home or, at a suitable premise in any institution run under the Act, and in no circumstances shall the Board operate from within any court premises.

(2) The premises where the Board holds its sittings shall be child-friendly and shall not look like a court room in any manner whatsoever; for example, the Board shall not sit on a raised platform and the sitting arrangement shall be uniform, and there shall be no witness boxes.

(3) The Board shall meet on all working days of a week, unless the case pendency is less in a particular district and concerned authority issues an order in this regard.

(4) A minimum of three-fourth attendance of the Chairperson and Members of the Board is necessary in a year.

(5) Every member of the Board shall attend a minimum of five hours per sitting.

Rule 6: 2016 Rules has added some more provisions e.g.; sittings on holidays and Sundays for emergency purposes.

Procedure to be followed while dealing with Juvenile in Conflict with Law

The following provisions of the JJ(C&P)C Act 2000 (hereinafter referred to as Act of 2000) are to be kept in mind by the authorities while dealing with the juvenile in conflict with law. Section 7 of the Act lays down the provisions when a juvenile in conflict with law or a child in need of care and protection is brought before a magistrate not empowered under the Act of 2000. The magistrate shall without any delay record his opinion and forward the juvenile or the child, and the record of the proceeding to the Board or CWC respectively having jurisdiction over the proceeding. The Board or CWC shall start the proceedings afresh. Section 10 of the Act of 2000 provides that as soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer who shall immediately report the matter to a member of the Board. It also empowers the state govt to make rules to provide for persons through whom (including registered voluntary organisations) any juvenile in conflict with law may be produced before the Board and to provide the manner in which such juvenile may be sent to an observation home. As soon as a juvenile alleged to be in conflict with law is apprehended by the police,²¹ it is duty of the concerned police officer to inform the designated Juvenile Officer in the nearest police station to take charge of the matter.²² The parents or guardian of the juvenile alleged to be in conflict with law are to be informed about the apprehension of the juvenile, about the address of the Board where the juvenile will be produced and the date and time when the parents or guardian need to be present before the Board. The rules made under the Act further impose the duty of providing above information to the concerned probation officer, to enable him to obtain information regarding social background of the juvenile and other material circumstances likely to be of assistance to the Board for conducting the inquiry.

The in-charge Juvenile or Child Welfare Officer from the nearest police station, shall produce the juvenile before the Board within twenty four hours. The police apprehending a juvenile in conflict with law shall in no case send the juvenile in lock-up or delay his charge being transferred to the Juvenile or the Child Welfare Officer from the nearest police station. Every in-charge of the police unit shall maintain a list of all designated Juvenile or the Child Welfare Officers in a district and members of Special Juvenile Police Unit with contact details prominently displayed in every police station. The Police or the Juvenile or the Child Welfare Officer from the nearest police station shall contact the parents or guardians of the juvenile for gathering the best available information and also apprise them of the juvenile's law breaking behaviour. The concerned officer shall also record the social background of the juvenile and circumstances of apprehension and offence alleged to have been committed in the case diary of each juvenile, which shall be forwarded to the Board forthwith. The arrest of the juvenile shall be made only in cases of his alleged involvement in serious offences (entailing a punishment of more than 7 years imprisonment for adults). In case the apprehension of juvenile is in his interest, he shall rather be treated as a child in need of care and protection and produce him before the Board, clearly explaining the juvenile's need for care and protection in its report and seek appropriate orders from the Board.

In case of offences of non-serious nature (entailing a punishment of less than 7 years imprisonment for adults) and cases where apprehension is not necessary in the interest of the juvenile, the parents or guardian of the juvenile and the Board shall be intimated about the nature of offence alleged to be committed by their child or ward. The Board shall have the power to call the juvenile for

²¹ . Rule 11. 2007 Rules: Pre and Post-Production action of police and other agencies.

²² . *ibid*.

subsequent hearings. the juvenile in conflict with law can be produced before the single member of the Board in case the Board is not sitting. In dealing with cases of juveniles in conflict with law the Police or the Juvenile or the Child Welfare Officer from the nearest police station, shall not be required to register an FIR or file a charge-sheet, except where the offence alleged to have been committed by the juvenile is of a serious nature such as rape, murder or when such offence is alleged to have been committed jointly with adults; instead, in matters involving simple offences, the Police or the Juvenile or the Child Welfare Officer from the nearest police station shall record information regarding the offence alleged to have been committed by the juvenile in the general daily diary followed by a report containing social background of the juvenile and circumstances of apprehension and the alleged offence and forward it to the Board before the first hearing. (12) The State Government shall recognize only such voluntary organizations that are in a position to provide the services of probation, counseling, case work, a safe place and also associate with the Police or the Juvenile or the Child Welfare Officer from the Special Juvenile Police Unit, and have the capacity, facilities and expertise to do so as protection agencies that may assist the Police or the Juvenile or the Child Welfare Officer from the police at the time of apprehension, in preparation of the report containing social background of the juvenile and circumstances of apprehension and the alleged offence, in taking charge of the juvenile until production before the Board, and in actual production of the juvenile before the Board within twenty-four hours. (13) The Police or the Juvenile or the Child Welfare Officer from the Special Juvenile Police Unit, or the recognized voluntary organization shall be responsible for the safety and provision of food and basic amenities to the juveniles apprehended or kept under their charge during the period such juveniles are with them. (14) When a juvenile is produced before an individual member of the Board, and an order obtained, such order shall need ratification by the Board in its next meeting. Section 11 provides that any person in whose charge a juvenile is placed in pursuance of this Act shall, while the order is in force have the control over the juvenile as he would have if he were his parents, and shall be responsible for his maintenance, and the juvenile shall continue in his charge for the period stated by competent authority, notwithstanding that he is claimed by his parents or any other person.

12. Bail of juvenile.- (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.

13. Information to parent, guardian or probation officer.- Where a juvenile is arrested, the officer incharge of the police station or the special juvenile police unit to which the juvenile is brought shall, as soon as may be after the arrest, inform-

(a) the parent or guardian of the juvenile , if he can be found, of such arrest and direct him to be present at the Board before which the juvenile will appear; and

(b) the probation officer of such arrest to enable him to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of assistance to the Board for making the inquiry.