



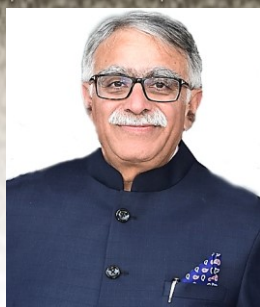
# **e-Souvenir**

**of the Webinar  
on Juvenile Justice  
held on 11th July 2020**

**Published by:  
Juvenile Justice  
Monitoring Committee,  
Patna High Court.**



# Juvenile Justice Monitoring Committee Patna High Court



**Hon'ble Mr. Justice Sanjay Karol,  
Chief Justice, Patna High Court and  
Patron-in-Chief,  
Juvenile Justice Monitoring Committee**



**Hon'ble Mr. Justice Ashwani Kumar Singh,  
Judge, Patna High Court and  
Chairperson, Juvenile Justice Monitoring  
Committee**



**Hon'ble Mr. Justice Ahsanuddin Amanullah  
Judge, Patna High Court and  
Member, Juvenile Justice Monitoring  
Committee**



**Hon'ble Mr. Justice Arvind Srivastava,  
Judge, Patna High Court and  
Member, Juvenile Justice Monitoring  
Committee**

## Acknowledgement

I take this opportunity to extend my sincere thanks to Hon'ble Mr. Justice Sanjay Karol, Chief Justice, Patna High Court for His Lordship's encouraging support/guideline for this e-Souvenir.

First of all, I extend my heartfelt gratitude to the Hon'ble Mr. Justice Ashwani Kumar Singh, Chairperson, Juvenile Justice Monitoring Committee, Patna High Court, Hon'ble Mr. Justice Ahsanuddin Amanullah, Member, Juvenile Justice Monitoring Committee, Patna High Court and Hon'ble Mr. Justice Arvind Srivastava, Member, Juvenile Justice Monitoring Committee, Patna High Court for their Lordships' untiring efforts in publication of this e-Souvenir based on the deliberations during the Webinar held on July 11th, 2020.

I would also like to acknowledge the valuable contributions of Hon'ble Mr. Justice Chakradhari Sharan Singh, Hon'ble Mr. Justice Ashutosh Kumar and Hon'ble Mr. Justice Rajeev Ranjan Prasad for their Lordships' messages and speeches on the topics of deliberations for publication of this e-Souvenir.



I extend my sincere acknowledgement to all the Hon'ble Judges for their Lordships' messages and encouragement for this e-Souvenir. Acknowledgement also goes to the learned Director, Bihar Judicial Academy and Member Secretary, Bihar State Legal Services Authority (BSLSA) for their co-operation.

I extend my acknowledgement to the two law students of GITAM School of Law, Vishakhapatnam namely Ms. Nishita Kirty and Twinkle Shaji for their contribution in converting the deliberations of the Webinar into this e-Souvenir.

And last but certainly not the least, I acknowledge the efforts of the Registry of this Court and the Officers and Staff of the Juvenile Justice Secretariat for their constant efforts in publication of this e-Souvenir.

**Suvash Chandra Sharma**

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## Introduction

The Juvenile Justice Monitoring Committee in order to spread public awareness as envisioned under Section 108 of the Juvenile Justice (Care and Protection of Children) Act, 2015 has regularly been organizing Seminars, Sensitization Programmes etc. for the stakeholders in the Juvenile Justice delivery system.

However, due to the peculiar situation created by the COVID pandemic, a Webinar in place of Seminar was organized on July 11th, 2020 for facilitating the spread of legal awareness regarding various provisions governing the Juvenile Justice amongst not only the stakeholders but also the common masses. It is pertinent to mention here that more than two thousand attendees had participated in the Webinar including Hon'ble Judges of various High Courts, Judicial Officers, Lawyers, Police Officers, Academicians, Professionals, Social Workers, Officers of the Department of Social Welfare and Law students.



Now, the Juvenile Justice Monitoring Committee is publishing an e-Souvenir, which in its due course would also be published in physical form, containing the topics of deliberations and the speeches of the Hon'ble Speakers, so that the thoughts evolved during the Webinar may widely be spread.

In furtherance of the spread of legal awareness on the Juvenile Justice, the Juvenile Justice Monitoring Committee has also started a You Tube Channel where the videos of the Webinar have already been uploaded.

The publication of this e-Souvenir would go a long way in educating the stakeholders as well as the common people regarding the provisions enshrined under the Juvenile Justice (Care and Protection of Children) Act, 2015 for safeguarding the rights of a juvenile thereby checking the violation of the rights of a child, so that a child can unfold all his potentials in an atmosphere free from any kind of fear and discrimination leading to his maturity as a responsible citizen, which is the responsibility of the State to provide, being the ultimate guardian of the child.

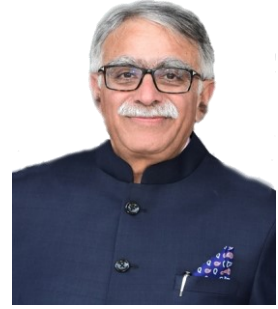
**Suvash Chandra Sharma**





## Message

**Hon'ble Mr. Justice Sanjay Karol**  
**Chief Justice,**  
**Patna High Court.**



The onset of Pandemic Covid-19 brought in challenges beyond human comprehension. Rarely has the human race faced such adversities which brought everything to a continuous standstill. But that is how the human race has allowed itself to evolve as a civil society. During such crisis since March, 2020, the silver lining has been the zeal, spirit and the team work exhibited, most appreciably, by the Juvenile Justice Monitoring Committee, Patna in fulfilling the Constitutional mandate of affording opportunities to the children ensuring their development in a healthy manner with conditions of freedom and dignity.



Several events organized by the Juvenile Justice Monitoring Committee including hosting Webinars on various aspects of juvenile in conflict with law; juvenile delinquency; and their consequent rehabilitative and reformatory programmes, ensuring their protection against exploitation, has brought in a tremendous amount of success and accolades amongst all the stakeholders. Consistently the Committee has been working in achieving the Constitutional mandate under Article 15(3), Article 39(e) and (f) and Article 45 and 47.

Despite the obstacles, as a true leader, Brother Justice Ashwani Kumar Singh has led his team comprising of Brother Justice Ahsanuddin Amanullah and Brother Justice Arvind Srivastava, ensuring the flag of Patna High Court fly high and placing it at No. 1 position in the country. My gratitude to all of them.

The Webinar, an outstanding success has been the flagship programme of the Committee in which Brother Justice Chakradhari Sharan Singh played a pivotal role. As usual, brilliantly Brother Justice Ashutosh Kumar presented his views on the topic Deinstitutionalization contemplated the evolution, global practices and the philosophy of the concept of Deinstitutionalization under the Juvenile Justice Act. With

equal brilliance, Brother Justice Rajiv Ranjan Prasad expressed his views on the importance of maintaining a Child-Friendly Environment. The most contentious issue of Preliminary Assessment was dealt with by brother Justice Ashwani, who incisively and innovatively simplified the issue by also placing his judicial pronouncements contributing to the arena of Juvenile Justice. His deliberations would undoubtedly benefit all the stakeholders in understanding the concept of Preliminary Assessment and the provisions of Appeal therein.

The most recent endeavour of the Juvenile Justice Monitoring Committee of publishing an e-Souvenir, covering the deliberations of the Webinar is also an achievement in itself. The first of its kind in Bihar. Surely, with the launch of the e-Souvenir, for all times to come the teaming millions, not only in Bihar but world over, would stand benefitted. My greetings and good wishes for such an endeavour.



I do no doubt that all the programmes would help the future generations develop a scientific temper; full of humanism with spirit of inquiry and reform, in supporting this great nation regain its glory and make India a world leader where every citizen holds its head high with a deep sense of pride, love and dignity.

Thanking you.

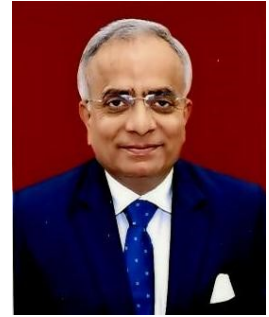
**(Sanjay Karol)**  
**Chief Justice,**  
**Patna High Court.**





## Message

**Hon'ble Mr. Justice Dinesh Kr. Singh  
Judge,  
Patna High Court.**



Child is the pillar on which the future of any nation is built upon. However, it is a matter of serious concern when a youth, at an early age, encounters with the law governing agencies. Reasons may be various i.e. economic, social, family background or any other reason, but it is the State, which in the capacity of '*parens patriae*', needs to cater the issues relating to juveniles. Juvenile Justice Monitoring Committee, in such capacity, is working hard to bring back the deviated juveniles on the track. Organizing a Webinar by the Juvenile Justice Monitoring Committee, is another welcome step to deal with the issue of Juvenile delinquency.



It is a matter of immense pleasure to know that for the protection of the child rights, the Committee is exploring all possible opportunities including sensitizing the stakeholders through Webinar. The topics for the deliberation in the Webinar i.e. (a). Synchronization of the Concept of Deinstitutionalization in the Best Interest of Child and Right to Bail under the J.J. Act, 2015, (b.) Navigation of Protective Potentials of the J.J. Act, 2015 relating to a Child in Conflict with Law who has completed or is above 16 years of age and is alleged to have committed heinous offence and the remedy of appeal therein and (c). Creating a Child Friendly Atmosphere and Protective Environment during Inquiry and Trial under the J.J. Act, 2015 – are certainly reflection of change of mindset towards the Juvenile delinquents. I hope that in the phase of Pandemic this e-mode of sensitization programme will surely help all the stakeholders of Juvenile Justice delivery system.





I am also delighted to know that Juvenile Justice Monitoring Committee is going to publish an e-Souvenir, which will ensure that the deliberations held in the Webinar would reach out to all the stake holders, even who could not participate in the said Webinar. I hope that the compilation of the deliberations made during the Webinar would benefit the enforcement agencies, Juvenile Justice Boards and members of the Bar to make a joint effort and to ensure the best interest of child.

The unceasing exertion made by the Juvenile Justice Monitoring Committee will certainly bring changes in the fate of Juvenile delinquents in the State. I wish them all the best for the present and all the future endeavours made in this direction.

Thank You.

Best Wishes

**(Dinesh Kumar Singh, J.)**





## Message

**Hon'ble Mr. Hemant Kumar Srivastava**  
**Judge,**  
**Patna High Court.**



The Webinar on Juvenile Justice organized by the Juvenile Justice Monitoring Committee was a thought-provoking, yet practical, insights of the topics deliberated therein. I appreciate the thoroughness with which the topics were researched and discussed in the Webinar. It was one of its kind event, which was well tuned with the prevailing pandemic situation due to COVID-19 and illustrate the dedication and efforts of the JJMC to secure the true spirit of Juvenile related laws in the State of Bihar.



It is encouraging to note that the JJMC has come out with the innovative idea of publishing an e-Souvenir of the Webinar. The e-documentation of the speeches will be of immense assistance as a reference and guide, not only to those involved in the administration of juvenile justice but also to the professionals and students as well.

I take this opportunity to congratulate the JJMC for having successfully organised the Webinar and for publishing this e-Souvenir.

Thanking You,

**(Hemant Kumar Srivastava, J.)**





## Message

**Hon'ble Mr. Justice Shivaji Pandey**  
**Judge,**  
**Patna High Court.**



It was my pleasure that I watched the Webinar on Juvenile Justice (Care and Protection of Children) Act, 2015, right from beginning to end which was nicely crafted, executed and presented which I enjoyed.

Every Hon'ble brother judges who participated in rendition, explained the assigned subject in a well-defined manner to my satisfaction.

I congratulate the entire team for successful execution of the video proceedings of the Webinar.

I wish such Webinars should be organised from time to time for the benefit of the participants.

*“Children are the supreme treasure of each nation and we are the youngest nation in the world. It is primary duty of each and every citizen of this country to protect and rear them properly, so, in course of time they may turn to be civilized, educated and strong citizenry of this country, in turn they would prove strong back bone of this country and would decide the destiny of his nation”*

Thanking to members of the committee.

**(Shivaji Pandey, J.)**





## Message

**Hon'ble Mr. Justice Vikash Jain**  
**Judge,**  
**Patna High Court.**



With keen interest, I viewed that Webinar on Juvenile Justice organised by the Juvenile Justice Monitoring Committee of the Patna High Court to discuss various aspects of the Juvenile Justice Act, 2015. I congratulate the JJMC on this initiative which attracted a large audience from diverse backgrounds. The new format of interaction through a Webinar is comparatively unfamiliar, but it retains the human connection as before, which is quintessential for the success of any discussion. The Webinar reached out and connected the several stakeholders on a common platform, enabling them to better understand and appreciate the nuances and ramifications of the Juvenile Justice Act, 2015. The efforts of the JJMC will surely help them in their mission of bettering the future of children in conflict with law and those in need of care and protection.

I am extremely delighted that the JJMC is releasing an e-Souvenir based on the Webinar and offer my best wishes for its future Webinars.

**(Vikash Jain , J.)**





## Message

**Hon'ble Justice Ahsanuddin Amanullah**  
**Judge, Patna High Court and**  
**Member, Juvenile Justice Monitoring**  
**Committee.**



Being a Member of the Juvenile Justice Monitoring Committee of the Patna High Court, it gives me immense pleasure to pen my thoughts for the e-Souvenir being brought out on the Webinar on Juvenile Justice held on July 11th, 2020.

Despite the prevailing pandemic, though the Committee was taking steps to monitor the functioning of Juvenile Justice Boards across the State of Bihar, the handicap of not being able to conduct workshops relating to the proper functioning of the institutions and persons concerned with the juvenile justice delivery system was greatly felt.

In this backdrop, the concept to hold a Webinar was mooted. It was a challenge as it was the first attempt by our High Court in such endeavour. The Committee also consciously decided to select the topics for the same, bearing in mind the fact that there was a huge gap between what the law contemplated and the actual implementation of the same by the concerned stakeholders.

The exercise was even more formidable as the Committee wanted maximum participation of all stakeholders so that it justified the efforts taken to organize the event and the urgent necessity to address such issues.

With the untiring efforts of the Juvenile Justice Secretariat, Patna High Court, the modalities were fine-tuned, and ultimately the event was witnessed by a large audience pan-India. The focus was to balance the academic discussion with the practical implementation of the law. It is some satisfaction that the object could be achieved to a large extent, given the inherent limitations of such exercise, as many issues which are faced by the stakeholders and grey areas could be cleared.





I would be failing if I do not mention the contribution of our Hon'ble the Chief Justice. The moment the idea of the Webinar was discussed with him, his enthusiastic encouragement set the tone and groundwork to move forward galvanizing the team. He took keen interest, being involved at every stage and his inputs and suggestions have contributed tremendously to the ultimate success of the event.

The holding of the Webinar has been a learning experience for the Committee and the Secretariat, and the final response was highly encouraging and has provided an impetus which shall prove useful in taking the concept forward in the days to come.

The idea of coming out with an e-Souvenir is a step towards preserving and consolidating the legacy of the event.

**(Ahsanuddin Amanullah, J.)**





## Message

**Hon'ble Mr. Justice Chakradhari Sharan Singh**  
**Judge,**  
**Patna High Court.**



It gives me immense pleasure to learn that the Juvenile Justice Monitoring Committee of the Patna High Court (JJMC) is going to publish a souvenir of the Webinar held on 11.07.2020 under the auspices of the Committee. I was fortunate enough to have been given an opportunity to actively participate in the Webinar as a moderator, which discussed threadbare three topics of great significance in relation to administration of Juvenile Justice in its letter and spirit, viz.,



1: Synchronization of the Concept of Deinstitutionalization in the Best Interest of the Child and the Right to Bail under the J.J. Act 2015.

2: Creating a Child Friendly Atmosphere and Protective Environment during Inquiry and Trial under the J.J. Act 2015: Issues and Challenges and,

3: Navigation of Protective Potentials of the J.J. Act 2015 relating to a Child in Conflict with Law who has completed or is above 16 years of age and is alleged to have committed a heinous offence and the remedy of appeal therein.

It was an enriching experience indeed. It is heartening to note that the JJMC has come out with the innovative idea of publishing a souvenir of the Webinar. It will surely serve the dual purpose of documenting the event, which was one of the first of its kind, and educating the stakeholders, present and future, in true and effective administration of the Juvenile Justice system. The depth of the three topics which could be touched, with learning and with equal passion by the main speakers, in the Webinar, gives me reason to believe that the souvenir may be of considerable use even for research purposes in the fields dealt with in the Webinar.



I take this opportunity to congratulate the JJMC for having successfully organised the Webinar and for publishing the Souvenir.  
Thanking You,

**(Chakradhari Sharan Singh , J.)**





## Message

**Hon'ble Mr. Justice Arvind Srivastava**  
**Judge, Patna High Court and**  
**Member, Juvenile Justice Monitoring Committee.**



The Juvenile Justice Monitoring Committee, Patna High Court, was constituted to monitor the conditions and functioning of the remand/observation homes established under Juvenile Justice (Care and Protection of Children) Act, 2015. The Committee does not only exercise administrative supervisory control over the CCIs and JJBs/CWCs/CCs but also functions as a friend, philosopher and guide to them.



The motive is to keep a child accountable for their criminal conduct, not through punishment, but through educating the child to recognise their actions and to encourage them to deter away from indulging in any criminal activities in their future.

Our Juvenile Justice Committee successfully organised a unique virtual seminar held on July 11th, 2020 that addressed all the critical subjects focusing on synchronization of the concepts of juvenile delinquency, positive and protective custody and seeking the protective potentials under Juvenile Justice Act, 2015 vis-à-vis a child's best interest in conflict with law. It is a moment of colossal gratification for all of us as a Committee to explore all possible avenues for the preservation of children's rights, through adding more platforms of awareness along with conducting information sessions sensitizing the stakeholders.

The scope of these three subjects that were spoken by our knowledgeable key speakers in the Webinar enlightened us with reasonable grounds for conforming that the information can be of great use even for further research and analysis purposes in the future for the socio-legal rehabilitation and reformation of children.



I would hereby extend my heartfelt congratulations on the inception of this glorious initiative. I am eagerly looking forward to reading the souvenir and gaining insight.

Regards,

**(Arvind Srivastava, J.)**







## Message

**Hon'ble Mr. Justice Ani Kumar Upadhyay**  
**Judge,**  
**Patna High Court.**



I am glad to know that the Juvenile Justice Monitoring Committee is going to publish E- Souvenir on the Webinar held on 11.07.2020 on Juvenile Justice (Care and Protection of Children) Act, 2015.

New Correctional jurisprudence has emerged in the realm of childcare and protection. Children are not criminal but conflict with law. There is global debate on efficacy of institutional care which was set up to take care of the orphan, destitute and neglected child. Parental care is the ultimate care for children culturization and development but those who are orphan, homeless and neglected child, their overall development is not possible in and around the environment where they are presently residing and cultured. The idea of institutional care is to provide friendly and congenial atmosphere in the development and growth of the children particularly the children in conflict with law. The Webinar has enlightened all the stakeholders to undertake challenge emerging in connection with the implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015. The scholarly discussion during the Webinar will go a long way in wheeling ahead the ultimate care, interest and welfare of the children.

I wish that the Juvenile Justice Monitoring Committee will organize more such Webinar to educate, enlighten and inculcate the spirit behind the framing of the Juvenile Justice (Care and Protection of Children) Act, 2015.

**(Anil Kumar Upadhyay, J.)**





## Message

**Hon'ble Mr. Justice Madhuresh Prasad**  
**Judge,**  
**Patna High Court.**



The efforts and various steps being taken by the Patna High Court Juvenile Justice Monitoring Committee are praiseworthy.

The webinar dated 11.07.2020 is another great step by the Committee for sensitizing the judicial dispensation system with emerging ideas and concepts essential for dealing with children who are alleged and found to be in conflict with law, and in need of care and protection, so as to ensure realization of dignity, protection against exploitation and abandonment.

I am delighted to know that an *e-Souvenir* is being published, as the same will further the objective of the webinar by spreading information throughout the common masses including the various stake holders.

Looking forward to many more such initiatives, I convey my best wishes and congratulate the Chairman, members and all those in the Registry and office, associated with the endeavors of the Committee.

Thanking You,

Regards

**(Madhuresh Prasad, J.)**





## Message

**Hon'ble Mr. Justice Mohit Kumar Shah**  
**Judge,**  
**Patna High Court.**



I am elated to know that the Juvenile Justice Monitoring Committee is going to publish an e-souvenir containing the topics deliberated upon during the Webinar held on 11.07.2020, for wide circulation of ideas evolved therein. I am also delighted that after a long gap such a great initiative has been taken by the Committee to organize a Webinar to deliberate upon topics pertaining to protection of the child rights, creating a child friendly atmosphere and protective environment during inquiry and trial, navigation of protective potentials of the Juvenile Justice Act, 2015 relating to a child in conflict with law and synchronization of the concept of deinstitutionalization in the best interest of the child and the right to bail under the Juvenile Justice Act, 2015.



*“Children are the world's most valuable resource and its best hope for the future.” — John F. Kennedy*

*“If we are to reach real peace in this world and if we are to carry on a real war against war; we shall have to begin with children; and if they will grow up in their natural innocence, we won't have to struggle; we won't have to pass fruitless idle resolutions, but we shall go from love to love and peace to peace, until at last all the corners of the world are covered with that peace and love for which consciously or unconsciously the whole world is hungering.” — Mahatma Gandhi*

In order to chart the future of the nation, a protective and favorable environment, bereft of hostility, brutality, abuse and exploitation must be ensured to every child and speedy justice should be ensured to the abused children who are involved in any kind of offence. The Juvenile Justice (Care and Protection of Children) Act, 2015 is the paragon of legislations regarding the protection of children in India. One of such progressive measure for ensuring compliance of the legislative vision as well as the legal obligations that arise from the Constitution and the UN Convention



on the Rights of the Child ratified by India is creation of the Juvenile Justice Committee at the High Court level to monitor and provide critical inputs to the stakeholders in the implementation of Juvenile Justice Act.

Thus, I am confident that the e-Souvenir will not only promote Juvenile Justice but also ensure that the constitutional rights available to children are well observed by all stakeholders. I hope and trust that this e-Souvenir will work as a mirror to disseminate the rights of the children so as to protect the same by all in the society.

I wish the publication of the e-souvenir all success.

Thank You.

**(Mohit Kumar Shah, J.)**





## Message

**Hon'ble Mr. Justice Anjani Kumar Sharan**  
**Judge,**  
**Patna High Court.**



*“Webinar on Juvenile Justice”*, the first of its kind was held covering almost all the sensitive areas of Juvenile, Juvenile Delinquency, Protective Custody, Deinstitutionalization and above all the wholesome welfare of the Juvenile in conflict with law.

There is always a first time in life. Novel innovative things emanates as a response to tackle the novel problems. This COVID Pandemic has changed the way of life, transformed the way of thinking and revolutionised the way of meeting the needs and challenges of life.

Webinar or in more simple terms seminar through virtual mode, is one of such responses to the novel problem. This Webinar, a brain child of brother Justice Ashwani Kumar Singh, Chairman, Juvenile Justice Monitoring Committee with the active support of Hon'ble the Chief Justice has covered wide ranging issues, almost all concerning the welfare of Juvenile. Brother Justice Ashwani Kumar Singh with his sound knowledge of Juvenile Justice law and its procedural provisions has enlightened us and with his elephantine wisdom has made us aware of the challenges being faced by the juveniles and the system taking care of Juvenile Justice.

Sedulous presentation of hither to nebulous concept of Deinstitutionalization concerning juvenile by brother Justice Ashutosh Kumar has been impeccable, immaculate and a learning experience for us, who from his vast study of his topic has made us aware of the areas which are not much discussed in the legal fraternity. Brother Justice Rajeev Ranjan Prasad has very succinctly delineated the topic Child Friendly and Protective Environment.





This Webinar has left a lasting imprint and I hope and believe to be a part of such Webinar in times to come. The decision to publish an e-Souvenir on the Webinar held on 11.07.2020 is a very innovative and novel idea which is always welcomed. I wish all the success for this e-Souvenir.

Thank You.

**(Anjani Kumar Sharan , J.)**





## Message

**Hon'ble Mr. Justice Anil Kumar Sinha**  
**Judge,**  
**Patna High Court.**



It gives me great pleasure to know that the Juvenile Justice Monitoring Committee has decided to publish a Souvenir in the form of an e-Souvenir with the intention to create awareness about care and protection of children in conflict with law and to sensitize institutions and public to adopt a child-friendly approach while dealing with children.

I am sure that e-based publication will make it possible for us all to be fully connected to each other for development in the field of Juvenile Justice and to be directly involved in ongoing knowledge construction. The Juvenile Justice System is founded on the idea that youth are different from adults. Based on the concept of '*parens -patriae*' – The State as Parent – Juvenile Courts were established to provide youth a chance to make better choice than delinquency. More than simply providing another chance, Juvenile Justice Professionals work to enable youth to make the kinds of decisions that will ensure a better future for themselves and their communities. My good wishes are with the Juvenile Justice Monitoring Committee and the editorial board of the e-Souvenir.

Thanks.

**(Anil Kumar Sinha, J.)**





## Message

**Hon'ble Mr. Justice Prabhat Kumar Singh**  
**Judge,**  
**Patna High Court.**



It gives me great pleasure to know that the Juvenile Justice Monitoring Committee, High Court, Patna is bringing out a Souvenir, on the experiences gained and topics deliberated upon during Webinar held on July 11th, 2020. The idea to launch and publish a Souvenir, is deeply admirable and for this, the Committee deserves to be congratulated.



I sincerely hope and wish that the Souvenir will achieve the goal in spreading awareness with respect to the Juvenile Justice (Care and Protection of Children) Act; 2015 amongst the stakeholders and will effectively assist the judicial officers in dealing with cases arising out of this Act.

I extend my warm greetings and wish the publication of memorable souvenir all success.

With best wishes.

**(Prabhat Kumar Singh, J.)**





## Message

**Hon'ble Mr. Justice Partha Sarthy**  
**Judge,**  
**Patna High Court.**



It gives me great pleasure to learn that the Juvenile Justice Monitoring Committee is going to publish a souvenir on the Webinar held on juvenile justice in the form of an e-Souvenir.

The Webinar held on 11.07.2020 by the Juvenile Justice Monitoring Committee of the Patna High Court under the guidance of its Chairman brother Justice Ashwani Kumar Singh, support of Hon'ble Chief Justice Sanjay Karol and the topics covered by the speakers were very informative and enlightening for all of us dealing with Juvenile Justice at different levels.

The idea of publishing the deliberations and the speeches during the Webinar will be extremely useful in making one and all aware about the different aspects of the Juvenile Justice Act.

I convey my best wishes to the Juvenile Justice Monitoring Committee for their unrelenting endeavour in achieving their object.

**(Partha Sarthy, J.)**



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## Message

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**Hon'ble Mr. Justice Aditya Kumar Trivedi**  
**Former Judge,**  
**Patna High Court.**



The efforts of the Juvenile Justice Monitoring Committee is praiseworthy. Such exercise will certainly be beneficial to the stakeholders in order to have proper perception during course of discharging of their obligations, as the topics so selected and discussed at the end of my esteemed brothers as a resource person going deep and exploring the niceties requiring repeated sermon which could only effectuate by such exercise.




**(Aditya Kumar Trivedi)**



## Message

**Jitendra Kumar**  
**Director, Bihar Judicial Academy,**  
**Patna**



Webinar on “*Juvenile Justice*” organized by Hon’ble Juvenile Justice Monitoring Committee (JJMC) of Hon’ble Patna High Court on 11.07.2020 with Hon’ble Judges as speakers on different themes of Juvenile Justice (Care and Protection of Children) Act, 2015 was a novel move during the pandemic to sensitize all the stakeholders in dispensation of justice to the children coming into conflicts with law. The address of Hon’ble speakers was highly illuminating and enlightening for all of us. The publication of the deliberations of the Webinar in e-Souvenir would further go a long way to sensitize us about Juvenile Justice based on reform and rehabilitation unlike Criminal Justice mainly driven by retribution to create deterrence. I must express my sincere gratitude to Hon’ble JJMC to come out with the e-Souvenir which would help us achieve the goal and object of the JJ Act, 2015 - striving to provide care, protection, development, treatment and social reintegration of children being either in conflict with law or in need of care and protection. No society can gain anything by punishing their children who may come in conflict with law, nor can it afford to neglect the children who need care and protection. Children are our future. We must protect and develop them.

Regards,

**(Jitendra Kumar)**



## Message

**Sunil Dutta Mishra**  
**Member Secretary,**  
**Bihar State Legal Services Authority**



It gives me immense pleasure to know that Hon'ble Juvenile Justice Monitoring Committee of Patna High Court is going to publish an e-Souvenir which will include the deliberations held in Webinar on July 11<sup>th</sup>, 2020 by the Committee which would benefit stakeholders including Enforcement agencies, Juvenile Justice Boards, Legal Services Authorities, Members of Bar to make joint efforts for securing the best interest of child.



Juvenile Justice Monitoring Committee is working hard for betterment of future of Children in Conflict with law and those in need of care and protection even during this Pandemic Covid-19 period.

On behalf of Bihar State Legal Services Authority I offer my best wishes to Juvenile Justice Monitoring Committee for successfully organizing the Webinar on Juvenile Justice and publishing e-Souvenir.

Thank you

Regards

**(Sunil Dutta Mishra)**





## Message

**Vinay Kumar, IPS**  
**Addl. Director General**  
**Criminal investigation Department,**  
**Bihar, Patna.**



Our Children are the offspring of our present and the repository of the future. It is the responsibility of the entire nation and the society to protect them and safeguard their rights. The information and guidance about children's rights as contained in the provisions of the Juvenile Justice Act, which was provided to the various stakeholders through a webinar, organized by the Hon'ble Patna High Court, will prove to be a milestone in prevention of crimes against them, protection of their rights, and development of their personality. I take this opportunity to congratulate the Juvenile Justice Monitoring Committee of the Hon'ble Patna High Court for the publication of the e-Souvenir on this topic which is certain to provide a fillip to our combined effort to better the lot of our children.



**(Vinay Kumar)**





## From the Chairman's Desk

**Hon'ble Mr. Justice Ashwani Kr. Singh**  
**Judge, Patna High Court and**  
**Chairperson, Juvenile Justice Monitoring**  
**Committee.**



**It** is my privilege to inform you that on 11 July 2020, the Juvenile Justice Monitoring Committee (“JJMC”) organised a Webinar to discuss the core aspects of the Juvenile Justice (Care and Protection of Children) Act, 2015. In the past, JJMC has organised various seminars from time-to-time. However, this time things were very different. As we all know COVID-19 forced the entire globe into rethinking the format of seminars. The JJMC took up the challenge and decided to foray into the uncharted e-territory by entering a discourse with all the stakeholders of the juvenile justice system. The thought-provoking Webinar attracted an unexpected mass audience across the nation which included Hon'ble Judges of the various High Courts, judicial officers, lawyers, police officers, academicians, professionals, social workers, officers of the Department of Social Welfare and law students.

The pandemic had forced us to reframe our strategies and developmental policies for children, especially those who belong to socio-economically backward and marginalised communities, thereby becoming the most vulnerable demographic. I am glad that the Webinar received an overwhelmingly positive response and the thoughts shared by the speakers reached out to the masses prompting each and all to think about (a) the concept of deinstitutionalisation in the best interest of the child and their right to bail; (b) an emphasis on the creation of child-friendly atmosphere and protective environment during the stages of inquiry and trial; and (c) other relevant issues pertaining to children in conflict with law who have attained or are above 16 years of age and are alleged to have committed a heinous offence.



I would particularly like to thank Hon'ble Mr. Justice Sanjay Karol, the Chief Justice, Patna High Court for extending relentless support and gracing the occasion as the Chief Guest. The Webinar would not have been a success without the tireless efforts of Brother Justice Vikash Jain who personally monitored the technical team of the E-Committee of the Patna High Court in order to avoid any technical glitches during the live streaming of the sessions. I would like to extend my special thanks to Brother Justice Chakradhari Sharan Singh for facilitating the panel presentation and keeping the panellists focussed while ensuring the presentations fit in the allotted time frame. His remark that "*Chalo bachcha hai, galti hui, sudhar jayega*" set the tone for the Webinar.

I would like to thank and express my sincere gratitude to Brother Justice Ashutosh Kumar for his as usual impressive speech and delivery style. His speech gave a wider perspective to the audience as it transcended legislations or black letter of law. It was based on intensive research covering real-life examples, psychological understanding of why young people turn to delinquency and pragmatic solutions for acting in the best interest of the child. I am extremely thankful to Brother Justice Rajeev Ranjan Prasad for an enlightening speech encompassing the need of a child-friendly atmosphere to improve the justice delivery system which guarantees respect for and the effective implementation of children's rights. I am sure his in-depth analysis of the topic would be extremely beneficial to the judicial officers and other stakeholders.

I am also thankful to Brother Justice Ahsanuddin Amanullah and Brother Justice Arvind Srivastava, members of JJMC who actively participated in conceptualising the topics for deliberation and successfully organising the Webinar. Their inputs and constructive suggestions have given us the strength to work towards the welfare of the children. At this juncture, I would also like to express my gratitude to all the Brother and Sister Judges of Patna High Court and the other High Courts who joined us for the sessions and encouraged us in our small endeavour. I would like to extend my sincere gratitude and appreciation for all of the hard work and dedication provided by judicial officers and employees of JJ Secretariat and the E-Committee of the Patna High Court.



No doubt, the new online format could not daunt the spirits of the audience, since the wisdom imparted remained the same and this has encouraged the JJMC to consider taking up more such projects in the future. From this encouraging experience, our conviction has become stronger that Webinars have indisputably gained wide acceptability and are the way forward. We are even more determined that this initial success will translate into even bigger and better sessions in the days to come.

In a further technological leap, the JJMC has compiled the speeches delivered at the Webinar in an e-Souvenir, which, I am confident, will be of immense assistance as a reference and guide, not only to those involved in the administration of juvenile justice but to professionals and students as well.

I would further like to take this opportunity to thank every person who has helped in organising the Webinar and compiling the contents of this e-Souvenir. It is due to your efforts that the JJMC grows stronger by the day and shall continue to strive for the betterment of society.

**(Ashwani Kumar Singh, J.)**



## Editor's Desk

**Sri Suvash Chandra Sharma**  
**Additional Registrar,**  
**Juvenile Justice Secretariat,**  
**Patna High Court.**



THE ESSENTIAL PHILOSOPHY of the juvenile court, and of other specialized courts handling children's cases, has been called "individualized justice." The term has been preferred by Roscoe Pound to the more usual "socialized justice" on the basis that all justice is social in purpose. This in essence means that the court "recognizes the individuality of a child and adapts its orders accordingly," that it is a "legal tribunal where law and science, especially the science of medicine and those sciences which deal with human behaviour, such as biology, sociology, and psychology, work side by side," and that its purpose is remedial and to a degree preventive, rather than punitive.



The juvenile laws are based on two fundamental concepts i.e. 'diversion' and 'restorative justice'. Diversion schemes relate to a policy-choice wherein cases involving juveniles are dealt with by bodies other than the formal court system, in order to avoid the stigmatization and trauma associated with judicial proceedings, whereas strategies oriented around the idea of restorative justice by promoting reconciliation, restitution and responsibility through the involvement of the child family, community and the victim provide juveniles opportunity to develop their individual capacities and contribute to society. Without successful combinations of these two concepts at the implementation level, the philosophy of 'individualized justice' would have no significance.



Despite having comprehensive juvenile related legislation in place, it is often felt that there is inherent risk of violation of children's rights within the juvenile justice system. This can be attributed not only to the weak implementation of the legislation but also to poor awareness about the same amongst the various authorities and stakeholders. There have been numerous reports to the effect that children in need of care and protection continues to languish in poorly managed childcare institutions, while children who come in conflict with the law continue to be treated as criminals. Therefore, one cannot overstate the need for a child friendly juvenile justice system with appropriate procedures and protocols in place for police, prosecutors, judges, probation officers and home staff – all of which are crucial to ensure the protection of 'child rights' and to ensure that the system works in the best interests of the child. This facet of child rights principles is recognized in Article 3 of the UN Convention on the Rights of the Child, which provides that *"in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."*



The improvement of the juvenile justice system is a gradual process, which requires intensive and continual follow-up as well as a long-term commitment rather than a series of 'ad hoc' exercises and 'knee-jerk' responses. With this standpoint, the Hon'ble Juvenile Justice Monitoring Committee (JJMC) of the Patna High Court is monitoring the implementation of the provisions of the Juvenile Justice (Care & Protection of Children) Act, 2015. Under this Act, the Department of Social Welfare, Govt. of Bihar is obligated to conduct training and awareness programmes at regular intervals to promote sensitization and behavioural changes among the various stakeholders responsible for the working of the juvenile justice system. Continuing in the same stride even in these challenging times of pandemic, the JJMC has organized this Webinar on Juvenile Justice for better understanding of the constraints and bottlenecks at various levels related with the listed topics.



The topics discussed in the Webinar are very much relevant as to the practical aspects in the implementation of the Juvenile Justice (Care & Protection of Children) Act, 2015, particularly those relating to the concept of deinstitutionalization, bail, best interests of the child, child friendly atmosphere and nuances of section 15 of the Juvenile Justice (Care & Protection of Children) Act, 2015. Indeed, a good load of takeaway is available in the deliberations put forth by the Hon'ble Speakers on these topics. Hon'ble the Chief Justice aptly observed in his Lordship's inaugural address that while dealing with the child related cases, the stakeholders must show compassion, maturity, positivity and deal with the matter from the point of view of the child and see things from their perspective.



Individualized justice is not, however, easy to achieve. For an authority to become a fully effective and fair body operating to uphold the rights and well-being of children, the main element should be the right approach towards the child either in conflict with law or in need of care and protection i.e. by considering him a victim placed outside the umbrella of social security irrespective of the reasons for such exclusion. Children perform well when their surrounding environment is positive and supportive towards them. Thus, we must touch the heart of each child to know the real reason of his unacceptable behaviour, but for that we must first develop a supportive and nurturing attitude, treating his situation as an opportunity to create a bond with him and to make need-based assessments for individualised tailored interventions and service packages.

**Suvash Chandra Sharma**  
(Bihar Superior Judicial Service)



## **REPORT OF THE WEBINAR**

**By Sri Saurabh Singh,  
Research Officer,  
Juvenile Justice Secretariat.,  
Patna High Court.**



A Webinar was organized by Juvenile Justice Monitoring Committee, Patna High Court on the topic of 'Juvenile Justice' on 11.07.2020. The object of holding the Webinar is to bring all the stake holders at one platform and to sensitize them on the issue of Juvenile Justice in the time of global pandemic.

### **LIST OF PARTICIPANTS**

<b><u>HON'BLE SPEAKERS &amp; MODERATOR</u></b>		
1.	WELCOME ADDRESS	Hon'ble Mr. Justice Arvind Srivastava, Judge-cum-Member, Juvenile Justice Monitoring Committee, Patna High Court
2.	INTRODUTORY ADDRESS	Hon'ble Mr. Justice Ashwani Kumar Singh, Judge-cum-Chairperson, Juvenile Justice Monitoring Committee, Patna High Court
3.	INAUGURAL ADDRESS	Hon'ble Mr. Justice Sanjay Karol, Chief Justice, Patna High Court
4.	ADDRESS ON THE TOPIC – Synchronization of the Concept of De-institutionalization in the Best Interest of the Child and the Right to Bail under the J.J. Act, 2015	Hon'ble Mr. Justice Ashutosh Kumar, Judge, Patna High Court
5.	ADDRESS ON THE TOPIC – Creating A Child Friendly Atmosphere and Protective Environment during Inquiry and Trial Under the J.J. Act, 2015: Issues and Challenges	Hon'ble Mr. Justice Rajeev Ranjan Prasad, Judge, Patna High Court
6.	ADDRESS ON THE TOPIC – Navigation of Protective Potentials of the J.J. Act, 2015 relating to a child in Conflict with Law who has completed or is above 16 Years of Age and is alleged to have committed heinous offence and the Remedy of Appeal therein	Hon'ble Mr. Justice Ashwani Kumar Singh, Judge-cum-Chairperson, Juvenile Justice Monitoring Committee, Patna High Court





7.	CONCLUDING REMARKS	Hon'ble Mr. Justice Ahsanuddin Amanullah , Judge-cum-Member, Juvenile Justice Monitoring Committee, Patna High Court
8.	VOTE OF THANKS	Sri Suvash Chandra Sharma, Additional Registrar, Juvenile Justice Secretariat, Patna High Court.
<ul style="list-style-type: none"> <li>Moderation of the entire Webinar was conducted by Hon'ble Mr. Justice Chakradhari Sharan Singh.</li> </ul>		
<b>PARTICIPANTS (AS ATTENDEES)</b>		
Other Hon'ble Judges of Patna High Court		
Hon'ble Judges of all High Courts		
<b>PARTICIPANTS FROM THE STATE (AS ATTENDEES)</b>		
<b>Sl. No.</b>	<b>Officers from Govt. Departments</b>	
1.	Additional Chief Secretary, Department of Social Welfare, Govt. of Bihar	
2.	ADGP, Weaker Section	
3.	Director, Department of Social Welfare, Govt. of Bihar	
4.	Range I.Gs. Police, Govt. of Bihar	
5.	DIGs Police, Govt. of Bihar	
6.	All SSPs and SPs, Govt. of Bihar	
7.	Chairperson and Members of the State Child Protection Society	
8.	Chairman and Members of CWCs	
9.	Probation Officers	
10.	Assistant Directors, Child Protection Unit	





<b><u>List of Participants form Bihar Judicial Academy and Bihar State Legal Service Authority (BSLSA)</u></b>	
<b>Sl. No.</b>	<b>Officers</b>
1.	Director and other Judicial Officers of the Bihar Judicial Academy
2.	Member Secretary and Other Officers of the Bihar State Legal Service Authority
<b>List of Participants from Judgeships (As Attendees only : Not as Speakers)</b>	
<b>Sl. No.</b>	<b>Officers</b>
1.	District and Sessions Judges, Bihar
2.	Additional District & Sessions Judges – I – cum – P.O., Children Courts
3.	Chief Judicial Magistrates
4.	Principal Magistrates
5.	Social Members, JJB
6.	All the Judicial Officers of the State of Bihar
<b>List of Participants Apart from Judicial Officers and Govt. Departments</b>	
<b>Sl. No.</b>	<b>Members</b>
1.	Members from the Bars of Patna High Court and District Courts Bar
2.	Legal Researchers/Students from Law Colleges



**Welcome Address**  
**By**  
**Hon'ble Mr. Justice Arvind Srivastava**  
**Member, Juvenile Justice Monitoring Committee,**  
**Patna High Court**

The speaker in his welcome address laid emphasis on the objectives of conducting the Webinar and the mandates of the J.J. Act, 2015 regarding conducting training and sensitization programme. The speaker briefly narrated the principle of 'Best Interest of Child' and highlighted the topics selected for the Webinar.

**Introductory Address**  
**By**  
**Hon'ble Mr. Justice Ashwani Kumar Singh**  
**Chairperson, Juvenile Justice Monitoring Committee,**  
**Patna High Court**

The speaker emphasized on the state of vulnerability of a child during pandemic in India, having the largest population of children below the age of 18 years. In his address the speaker discussed the directions issued to various authorities by the Supreme Court in ***Suo Moto Writ Petition (Civil) No.- 04 of 2020 dated 03.04.2020***, in order to protect children in protection homes from the spread of CORONA VIRUS. Issues like release of children from observation homes and counseling services provided to them were the key points in the inaugural address. Concern for the children alleged to conflict with law living in unsanitary and crowded condition in observation homes and place of safety has been expressed by the speaker and discussed the duty of the Juvenile Justice Monitoring Committee. The speaker finally outlined the objective of the Webinar and expressed his gratitude for Hon'ble the Chief Justice for all his co-operation.



## **Inaugural Address By**

### **Hon'ble the Chief Justice, Patna High Court**

The speaker congratulated Hon'ble Mr. Justice Ashwani Kumar Singh and the Hon'ble members of the Juvenile Justice Monitoring Committee for being first in the country to organize a Webinar. The speaker stressed on the fact that the future of the children is dependent on how we treat them in the present times. While deliberating on the child population in the State of Bihar, the speaker highlighted that 30% of the population of Bihar is below 14 and 40% is below 18 years (as per 2011 census). The speaker reminded the duty of the participants of the Webinar to ensure that today's children must have a bright future. Further, the deprived ones, the marginalized ones, the downtrodden ones and those who are left out must be brought back into the nationals. The speaker emphasized on the fact that the stakeholders must deal with the matters related to a child with the point of view of such child. The speaker also highlighted the historical development of Juvenile Laws, nationally and internationally, both. Lastly, the speaker urged to ensure the implementation of the J.J. Act, 2015 in its letter and spirit.



## Address by Hon'ble Mr. Justice Ashutosh Kumar

### On the topic of

### Synchronization of the Concept of De-institutionalization in the Best Interest of the Child and the Right to Bail under the J.J. Act, 2015

The speaker started with establishing the synchronization of two entwined concepts i.e. De-Institutionalization and Right to Bail to Juveniles. Before addressing on the topic, the speaker conceived the status of Juvenile Justice at present to that of a hit the snooze button syndrome and narrated the Webinar as a wakeup call. After setting the tone for his address the speaker highlighted the paradoxical situation as to the probable consequences when a child in conflict with law is institutionalized and when he/she is released from such institution and thus undertook the task to discover the balance between the two. In order to maintain the balance it was suggested that a "**Robust Gate Keeping Mechanism**" should be the parameter before institutionalizing any child. The speaker started with the evolution of the concept of Institutionalization and discussed the United Nations report on impact of Institutionalization at present. The speaker also highlighted the success of the establishment of SOS children's villages which are run by International Non-governmental Organization. Principles of Best Interest of a Child and instances of internationally triumphant personalities were the highlight of his address. Further, the background of enacting Juvenile Justice (Care & protection of Children) Act, 2015; principles enshrined under section 3 of the said Act and the role of Board/Court in implementing those principles were dealt extensively. Lastly, the comparative concept of Bail under section 12 of the J.J. Act, 2015 vis-à-vis under sections 437, 438 and 439 of Cr.P.C was discussed with the aid of various judgments in this light. The speaker extensively dealt with one of the most controversial ground for refusal of bail to Juvenile i.e. *defeats the ends of justice*. In this light, the exception was urged to be read in the light of principle of *ejusdem generis*. The judgment of **Lalu Kumar vs. State of Bihar** was also highlighted as the compendium of the Juvenile Justice which deals with almost all the aspects relating to juveniles including bail and de-institutionalization. Lastly, deliberations were also made on the case laws of **Sheela Barse and Ors. vs. Union of India and Ors.**; **Salil Bali vs. Union of India & Anr.**; **Subramanian Swamy and Ors. vs. Raju through Member, Juvenile Justice Board and Anr.**





## Address by Hon'ble Mr. Justice Rajiv Ranjan Prasad

### On the topic of

### Creating A Child Friendly Atmosphere And Protective Environment During Inquiry And Trial Under The J.J. Act, 2015: Issues And Challenges

The speaker embarks on his address by raising a question as to why the concept of child friendly atmosphere and protective environment has been brought into existence under the J.J. Act, 2015. The discourse was elaborated with case law jurisprudence as in the case of *Sheela Barse (II) vs. Union of India*, *Lalu Kumar vs. State of Bihar* and *Sampurna Behrui and Others vs. Union of India*. The speaker emphasized on the importance of maintaining child friendly environment by quoting the mandates of various international conventions and also under various Articles of the Constitution of India such as Convention on Child Rights, United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (*the Beijing Rules*), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) and the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (1993) and at national front, the speaker discussed Article 15(3), Article 39 (e) and (f), Article 45 and Article 47, reflecting the rights of a child. While discussing the concept of child friendly environment under the J.J. Act, 2015 at various stages of inquiry and trial, the speaker made special reference to section 10, section 94, section 15 of the J.J. Act, 2015 and Rule 8, Rule 30, Rule 69-B, 69-G and Rule 10-A of the Bihar Juvenile Justice (Care and Protection of Children) Rules, 2017. Further, the role of Special Juvenile Police Unit, Child Welfare Police Officer and Probation Officers in maintaining the child friendly environment were the key highlights of the discussion. Jurisprudential analysis terms “*apprehension*” and “*arrest*” were also made by the speaker which in turn reflects the need in change of mindset of all the stake holders of juvenile justice system. For maintaining a child friendly environment, procedures to be adopted during production of child, run away child, preliminary assessment, examination of child, inquiry and trial etc. were also discussed in length by the speaker. Additionally, invoking powers conferred under section 165 of the Indian Evidence Act, 1872 was strongly suggested by the speaker in order to maintain a child friendly environment during inquiry or trial. Lastly, the speaker also emphasized on the challenges being faced while maintain a child friendly environment such as- sensitization of the police officers dealing with the matters involving a juvenile; lack of infrastructure, need of psycho-socio-psychologist, appointment of social workers, quality of legal aid lawyers etc. and suggested that these challenges can be met out with the basic concept of three “A’s” i.e. changes in *Attitude, Ambience and Alertness*.



**Address by Hon'ble Mr. Justice Ashwani Kumar Singh**

**On the Topic of**

**Navigation Of Protective Potentials Of The J.J.Act,2015 Relating To A Child in Conflict with Law who Has Completed Or Is Above 16 Years Of Age And Is Alleged To Have Committed Heinous Offence and the Remedy of Appeal therein**

The speaker of the topic firstly laid down the basis for the given topic by discussing the concept, philosophy and the jurisprudence of Juvenile Justice System in India. The speaker accentuated on the doctrine of '*parens patriae*' and stressed upon the constitutional and procedural rights of a juvenile. Before discussing the historical background of Juvenile laws in India the principles of '*doli capax*' and '*doli incapax*' enshrined under the Indian Penal Code were highlighted. Further, starting with the Apprentices Act, 1850; Reformatory Schools Act and the report of the Indian Jail Committee, 1919-1920, the speaker highlighted all the legislative transformations in Juvenile Justice laws including the Madras Children Act, 1920, the Bengal Children Act, 1922, and the Bombay Children Act, 1924, the Children Act, 1960 till the enactment of Juvenile Justice (Care & Protection of Children) Act, 2015. While addressing the historical development in national arena, the speaker also highlighted the development of Juvenile laws internationally. The deliberation emphasized the newly incorporated mechanism of '*Preliminary Assessment*' under the J.J. Act, 2015 and the steps which the JJ Board needs to adhere while conducting preliminary assessment. The speaker stressed upon the fact that there exist a dearth of psychologist or psycho-social workers but there are enough other experts dealing in child psychology and urged that the J.J. Boards are required to take assistance of such experts in the absence of first two experts. Stressing upon the importance of preliminary assessment the speaker asserted that the preliminary assessment is a powerful tool to get a holistic understanding of the journey of the child in question and enables the J.J. Board to appreciate the circumstances that led to the commission of the alleged offence. Further, serious concern was shown as to the casual approach of the J.J. Boards while conducting the preliminary assessment and the procedure adopted by them. Resultantly, these assessments are turning counter-productive and would not be in the 'best interest of the child'. J.J. Board members were also advised to be proactive in asking for psychologist or psycho-social worker or other experts to help them in preliminary assessments for cases pertaining to child in conflict with law. However, the speaker also emphasized on



the role of the State and urged to take necessary steps in order to provide panel of psychologists or psycho-social workers or other experts to help the Boards in making such preliminary assessments. While discussing the role of Children's Court, the speaker pointed out that as a Judge he is yet to see an order where the Children's Court has decided not to try the transferred child as an adult and has conducted inquiry in case of a child having been transferred to the children's court by the board to be tried as an adult for committing a heinous offence. Further, the speaker raised his concern on the practice of using the designation by the presiding officers of Children Court as a '*Additional District & Sessions Judge or a Special Judge*'. Lastly, the speaker discussed the provisions of sections 15, 18 (3), 19 and 20 at length and by elaborating the provisions of section 101, the speaker cleared the doubts as to the forums for exercising the powers of appellate Court under the J.J. Act, 2015.





## **Concluding Remarks**

**By**

**Hon'ble Mr. Justice Ahsanuddin Amanullah**

After the addresses of all the speakers the concluding remarks were given by Hon'ble Mr. Justice Ahsanuddin Amanullah. The speaker presented a laconic report on the deliberations of the speakers on the topics of the Webinar. The speaker accentuated on the importance of training of the stakeholders of Juvenile Justice System in order to change the mindset from a Presiding Officer of a regular Court to the Presiding Officer of the Juvenile Justice Board or Children's Court. The speaker laid emphasis on the huge population of children, specifically in the State of Bihar, and reminded the duty of all the stakeholders in order to strengthen the Juvenile Justice system. The speaker also highlighted that Juveniles needs to be sensitized that as a child they may have committed some mistakes, but they are part and parcel of the society and reinstate the confidence that they can contribute in the society. It is high time when the stakeholders needs to work in a manner that juveniles should not feel that they are aliens for the society, and they deserve the same amount of love and affection of the society as that of a normal child. The speaker also expressed his concern on the institutional abuse of a child resident and the importance of individual childcare plan for his/her rehabilitation and social reintegration. Further, the speaker also briefly discussed the importance of maintaining child friendly environment. The speaker also urged the J.J. Boards to exercise their powers diligently while conducting preliminary assessment and drew the attention of Children's Court towards its power under section 19 of the J.J. Act, 2015 and advised to be in the role of a guardian for such juveniles.

The speaker concluded his address by submitting that that everyone has a child dwelling within us, and we need to keep that inner child alive and to keep ourselves in the place of juveniles. It is only in such circumstances that we can cater to the needs of such juveniles and render true justice to them.



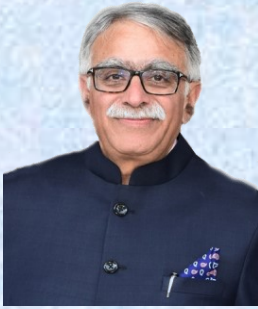


**Moderation of the Webinar**  
**By**  
**Hon’ble Mr. Justice Chakradhari Sharan Singh**

The entire Webinar was efficaciously moderated by Hon’ble Mr. Justice Chakradhari Sharan Singh. The moderator onset the moderation by sharing a simple life experience of pardoning a child for his/her mistake or misdeeds by saying “*Abhi Baccha Hai, Samajh Nhi Hai .... Sudhar Jayega*” (he is a child who does not understand and will correct himself). The moderator asserted that this simple saying exhibits the philosophy and the foundations of the entire Juvenile Justice System. The moderator also highlighted the role of the State as ‘*parens patriae*’ in cases of child in conflict with law as well as child in need of care and protection of law, both. Finally, the moderator introduced the topics to be discussed during the Webinar and the speakers too.

**The Webinar concluded with a vote of thanks to the resource persons and participants by Sri Suvash Chandra Sharma, Add. Registrar, Juvenile Justice Secretariat, Patna High Court**





## **Inaugural Address By – Hon'ble Mr. Justice Sanjay Karol Chief Justice, Patna High Court.**

With the permission of god almighty I shall begin. My esteemed colleagues and Hon'ble Mr. Justice Ashwani Kumar Singh, Chairman of the Juvenile Justice Monitoring Committee, his energetic team, Hon'ble Mr. Justice Amanullah, Hon'ble Mr. Justice Arvind Shrivastava and the panelists whom I can see smiling on this screen. Obviously, my learned brothers of this court are with us and as I understand the members of the legal fraternity as also the academicians all over the world are there with us today. What a great moment it is. Thank you, brother Ashwani.

To begin with I must congratulate brother Ashwani for making my dream of making the judiciary and the courts of Bihar as number one in the country come true. Today is yet another milestone in that direction. Ladies and gentlemen, Hon'ble Mr. Justice Ashutosh, Hon'ble Mr. Justice Rajiv Ranjan Prasad, Hon'ble Mr. Justice Ashwani Kumar who are here today, I am sure you will be enriched with their views and I must at this point of time complement Hon'ble Justice Ashwani Kumar and his team. I must tell you that you are the first court in the country where Juvenile Justice Monitoring Committee has organized a Webinar. My felicitations and greetings. Congratulations to all of you.

With this tone I will begin. Yesterday, I saw a video of two young boys belonging to different backgrounds walking together holding hands in the US. That video was being celebrated as an example of true spirit of humanity that does not discriminate along the lines of caste and orientation. But what is interesting for me was that both the



children were wearing their face masks. That according to me is an indication that sometimes children lead the way forward and show us what is the best for humanity. Especially in the current times of COVID 19 that made me reinstate my faith that children are indeed the citizens of tomorrow.





The future of the children is dependent on how we treat them in the present time. When I came here, I said that Bihar is a great-great motherland. All civilizations, different civilizations over period, different religions, different cultures have born and evolved in this great land. Buddhism, Jainism, Sikhism everyone has seen the culture, the tradition here but we have great challenges also. I have been saying right from the very beginning that one tenth of India lives in Bihar and as per the 2011 census 30% of the population of Bihar is below 14 and 40% is below 18 years.

How do we treat them? How does a nation deal with the delinquents in relation to, according to me in ideologies of the society and the strength of the rule of law. For me, I was just tracing how the Juvenile Justice laws have evolved worldwide. It took centuries in across nation for the law to evolve, right from the 19th century till the UN Declaration. India, when the Britishers came that was the first time when the law was really enacted and since then till the Constitution came there were just about five legislations. It was only in the year 1986 and between 1986 to 2015 we saw an umbrella legislation which was brought in to take care of these young ones. Now, having said that I must also admit that the act imposes great duty upon us. What is it that we want to see India evolve as? In my considered view most of the child must have rather we must instill in them respect for the law and not the fear of law or of the court. We must instill in each child the constitutionalism; the idea of this great nation and the ideologies which the constitution makers have enshrined there in the constitution, so as to when they step out and lead the way of the nation, they must have the respect and love for the Constitution, its principles and also have compassion for all living beings. It is our duty, it is the duty of the State, it is the duty of the society also to see that we have a bright future of these children and that would only make India become a great superpower one day. The guardians and the law providers have set up various institutions, infrastructures which were to take care of and the challenges according to me which brother Ashwani has already highlighted is understanding and applying the law as it exists in true letter and spirit and all this I am sure we can do together by having an inclusive association and participation of all concerned-including the lawyers, the members of the legal fraternity, legal services authority and of course the Juvenile Justice Board. Not only we have to work for those who come to us, but we have to step out and reach out to those so as to see that the provisions of the Act are implemented in letter and spirit. The deprived ones, the marginalized ones, the downtrodden ones and those who are left out must be brought back into the mainstream.



Then only we will have this great idea of having a great nation. Friends, I am sure during the day, all of you would be enriched by the views which would be pressed by my colleagues. I am sure the judicial officers of the state and outside the state would be benefitted. I only request that please patiently listen to all the brothers and I am promising you that I am also going to sit throughout the Webinar and listen to you because education is something which comes each day. I would also be benefitted and enlightened by your views. Judges, I must say whether you are dealing with the cases inside the Court or outside the Court you have to show compassion, you have to show maturity and show positivity and you have to deal the matter with point of view of the child and see from their perspective. This is how I would request, that the happiness quotient, the emotional quotient of each one of the child has to be understood. I am patiently waiting to listen to the views of my brother Ashwani who would tell how yesterday's child will continue to live with dignity and pride in the unpredicted environment in the society. I will also patiently listen to brother Ashutosh who would have to say whether the state or the society is best suited to the child to become a happy, law abiding citizen of this nation. Also listen to brother Rajiv who has to say how the flora and fauna be brought in, can bring brightness and compassion in the lives of each one of us not only within the presence of the judicial complex but also outside.

***With these words, ladies and gentlemen, I congratulate brother Ashwani and his team and wish success to all of you.***















**Address By:**  
**Hon'ble Mr. Justice Ashutosh Kumar**  
**Judge, Patna High Court.**

### **Synchronization of the concept of Deinstitutionalization in the best interest of the child and the Right to Bail under the Juvenile Justice (Care and Protection of Children) Act, 2015.**

This topic has two elements which need to be explained. They are, Deinstitutionalization and Right to Bail under the Juvenile Justice Act, 2015.

#### **How to Synchronize them?**

This topic is so interwoven and intertwined that it cannot and ought not to be dealt with separately. If the provisions of Juvenile Justice Act, 2015 are seen and examined with care and concentration, it will become obvious that the concept of deinstitutionalization inheres in it.

As a child is a seed which matures into an adult, likewise every idea also begins with a seed of thought. The seed here is a feeling amongst the members of the Juvenile Justice Monitoring Committee that the administration of the J. J. Act can be better done if the concepts are made clear to the stakeholders and the position of law is stated with clarity. This feeling is result of a wake-up call.

#### **What is a wake-up call?**

You would also be simultaneously required to know the relevance of '*snooze button*' to stop the wake-up call. The loudest voice today is the ringing of wake-up calls. When you hear of a young man who has had a heart attack, you know it is a wake-up call for you to start physical work; to get on to the treadmill and to get back to the fitness mode. When you hear of the crash of big companies on Wall Streets, the Indian Banking Majors start giving you calls for loans. When you read about divorce and its increasing numbers in the Metros, you straightaway start thinking about your home affairs and it is a wake-up call for you to pay more attention to your home fronts. But when do we hear such wake- up calls. Unfortunately, despite the constant blaring of



these wake-up calls, we have not yet kick-started. The reason for this complacency, to my mind, is in the first instance, a false sense of having achieved the desired goal and the second - the normal human tendency to hit the snooze button to stop the alarm. This is what I call '*hit the snooze button*' syndrome. The temptation is to put off action until a bit later, and then a little later. This is what has happened to the administration of Juvenile Justice Act.

I hate to speak the statistics. But the truth is that the UNICEF has estimated that 153 million children globally have lost one or both parents. 43 million of them live in South Asia alone, which includes India. Besides orphans, there are substantial number of children, who have been ousted from the family protective net and they have got institutionalized as abandoned, abused, run away children or children in conflict with law. The children in conflict with law and children who need care and protection are our primary focus today.

I have used the expression '*Institutionalization of Children*'. To understand this, we must know, what does the word '*Institution*' mean in the context of J. J. Act, 2015. It refers to different kinds of residential facilities, where boys and girls spent their lives. Examples are Children's Homes, Care Homes, Juvenile Detention Facilities, Prisons, Orphanages, Reform Schools, Schools for Physically and Mentally Disabled Child etc. etc. Any Child, who stays in anyone of these institutions other than the Home is said to be '*Institutionalized*'.

A paradoxical situation emerges in either case. If a child '*in conflict with law*' or a child '*in need of care and protection*' is not institutionalized, there is every likelihood of their being exploited and marginalized. The inhuman and violent life conditions which they face, turn many of them into law offenders, drug abusers and perhaps exploiters themselves. On the other hand, if they are institutionalized, there is no guarantee that they shall not be exploited or that they would be provided fullest opportunity for developing themselves: physically, mentally and sociologically.

### **Where is the balance?**

This is the question for us to ponder over. There has been an interesting and sharp development in the line of thinking globally. The development of Human Rights principles at the international level has directly resulted in decrease in number of Institutions and there has been a phenomenal change in the models of Children's Institutions today.





The debate for and against, the institutionalization is not new. This has been debated for a long time, perhaps from mid 1950. The concept of Institutionalization first began with Catholic Churches which made constructions of residential facilities and managed them for abandoned children in Italy. This spread over the entire Christian World very shortly. Sometimes later, with the growth of industrialization, colonization and introduction of machinery, a need was felt for protecting and rescuing under-privileged children. The Capitalist Economic Models were being offset by the Bourgeoisie concept of rescuing and protecting under-privileged children.

The large Institutions, because of management problems, could not provide full support for the physical, social, emotional and developmental needs of children in the same way as a Family would have given. Reports from various countries around the world clearly depicted a picture that children living in the Institutions are more prone to violence than those living in families. Again, the statistics is that violence in residential institutions are approximately six times higher than the violence in Foster Care and Family Based Care homes. It was also found that boys and girls in these Institutions are sexually abused and many a times they sexually abuse others on whom they can exercise their physical control. The staff and the officials responsible for managing those institutions also, many a times, become perpetrators of physical and psychological violence. Self harm is also not very uncommon, especially amongst children who have suffered some trauma in the past.

A report of United Nation disclosed that the impact of Institutionalization on the child goes beyond the immediate exposure to violence. There are long term effects of institutionalizations, like irreversible psychological damage, suicidal tendencies and criminal proclivity. When these findings became common and there was a generality about the evil effects of institutionalization, then an idea gained ground that children should not be taken away from the communities unless all other options have been exhausted. This was a step towards deinstitutionalization.

This concept started gaining momentum. There was political support worldwide and because of such political support in different nations, several legislations were enacted which were either directed towards proper management of those institutions or towards investments in families which could be entrusted with the dominion of children in need of care and protection. One such effort was establishment of '*SOS children's villages*' which are run by International Non-governmental Organization.



In India there are 33 Centers of SOS Children's Villages in 21 States. Once it was understood that every child needs individualized and adequate care, International Human Rights Instruments sprang up for taking this concept forward. In 1989, the United Nations Convention on Rights of Child declared that the signatory States were required to provide special protection to deprived children. It underlined the mandate that a Child needs to remain at Home, at School and in his own community. This required the family situation of a child to be investigated and causing placement of a child in the residential facilities only in his or her best interest. Guidelines were issued in this regard.

Everywhere, the buzz word was '*Institutionalization to be the last resort*'. The guidelines echoed the necessity and suitability principles for treating institutionalization of a child as a last resort. The necessity principle involves preventing a situation which forces a child to be kept in the alternative care. Very often families with lesser income want their children to be maintained at the cost of the institutions because they can't afford. Children with disabilities are unwelcome in less understanding and less-privileged families. Children not born out of the wedlock or of single mothers abound in number in such institutions. Petty offenders, because of economic destitution, are also diverted towards those institutions, perhaps in the belief that it is a kind of restorative measure for them that they don't go to a Jail which is perceived as a School of Crime.

The necessity therefore for framing any guideline is to provide a '*Robust Gate Keeping Mechanism*' which would prevent children from being admitted to such institutions without exploring the possibilities of family, foster or traditional Kinship care. If no option is available or found to be suitable for the best interest of the child, then only Institution should be looked at. Therefore, the necessity principle of these guidelines requires adequate services or community structures to which referrals can be made and a gate keeping system that can operate effectively. The suitability principle revolves around the individual problems of a child and their solutions.

Every child is different and is required to be treated differently, this is the '*Best Interest of the Child*' - This includes their right to Protection and a chance for harmonious development. Protection means Right to Life and Survival and cover from any form of hardship, abuse or neglect, which would be either physical, psychological, mental or emotional. It also includes





harmonious development, which ultimately means a situation where a child can have a reasonable standard of life and living which is adequate for overall growth and healthy development.

In this context, It would be apt to let you know that the '*Best Interest of Child*' has been defined in same terms in the J. J. Act, 2015. Before I go to the Act and the relevant provisions which inhere in it the general principles to be followed, especially the Best Interest of the Child including efforts at Deinstitutionalization, I must tell you that why this Law has come into existence.

Before tracing the history of the Act in India, I would tell you, in social context, that people with difficult childhoods, troubled childhoods or having criminal background or run-away children have made it big in life and have greatly contributed to the society. They only required a proper direction and some care, so they did not feel marginalized or useless adjuncts of society. Even children with disabilities have turned out to be great celebrities. This was long understood by the world community.

Children are the future of a nation and they cannot be allowed to be wasted. They are the national wealth. Every effort should be made to preserve that wealth. These are not empty and wishful thinking or altruistic rhetoric. Such efforts have bore fruits. I will give you few examples. You have heard of *Carlos Acosta*. A Cuban; eleventh child of a poor truck driver and a mother with severe health problems. He was put in a government school so that he could be fed at least once a day. Now, today he is recognized as one of the world's greatest performers.

Another example is *Ashwin Willems*. He was a small-time drug dealer in South Africa. He was shot twice; many of his friends were either in Jail or dead. He discovered Rugby and turned his life around. He is known as a winger of matchless speed, agility and power. He is one of the greatest players of Rugby and a role model for new generation Rugby players.

*Malala Yousafzai*, a common name, the youngest ever recipient of Nobel Peace Prize. She is often compared to the holocaust diarist – *Anne Frank*. She is known for her activism for the Rights of Girls to Education.

Another hugely successful person with a troubled childhood is *Oprah Gail Winfrey*. She was sexually abused by several family members as a child and she ran away from home at the age of 13. She eventually settled with her estranged



father. She is credited with many works including Gay Rights. She has revolutionized the American Television (chat shows with her confessional and emotional style, which subsequently has become ubiquitous – ‘*The Oprah Winfrey Show*’). She is also a major promoter of minority causes and a philanthropist. With a net worth of 3.1 billion dollars, she is the America's richest African-American.

*Charlie Chaplin* - another name - who had a troubled childhood. I recently could lay my hand upon a book by *Greta Thunberg*. The name of the book is ‘*No one is too small to make a difference*’. *Greta Thunberg* was born in 2003 only. In August 2018, that is when she was only 15 years old, she decided not to go to school one day, starting a strike for the climate, outside the Swedish Parliament. Her actions ended up sparking a global movement for action against the climate crisis, inspiring millions of people to go on strike for our planet. She is a child with a severe disability called Asperger's. But she considers it a gift of God which has enabled her to see the climate crisis in black and white. The list is endless.

I have taken the names of these personalities to let you know that a person with troubled childhood does not necessarily become a criminal. The society ought not to discard them; rather, facilitate their growth. They can be assets to the society and be the future leaders of the world.

Many Authors and Activists world over have turned their gaze towards child rights. *Erik Erikson* – who has coined the term ‘*Identity Crisis*’; *Kailash Satyarthi*, who has campaigned against Child Labour and has advocated Universal Right of Children for Education; *Craig Keilburger* – of ‘*Me to We*’ fame; *Muzoon Almellehan*– who is known as ‘*Malala of Syria*’; *Memory Banda*; *Iqbal Masih*; *Monira Rahman*; *Indira Ranamagar*; and *Molly Melching* - they are some of the names who have worked against Child Marriage, Rights of Debt Slave Children in Pakistan, Rights of Victims of Acid Attacks, Rights of Prisoner's Children in Nepal, Right of Children in areas where ethnic conflicts takes place and movement to end female genital cutting, child marriages and forced marriages. A special reference is required to be made of ‘*Dunga Mothers*’. They are also called mothers of St. Rita. These African woman have struggled for helping children living in villages of Kenya who have lost their parents to AIDS. All these activists and authors have canvassed the need of home like environment to children in need of care.





A child's best chance for fulfilled and happy life begins in his family. I repeat, children and their circumstances are not homogeneous. Each child faces different risks and specific vulnerabilities. Hence, each child must be dealt with on case to case basis. Keeping these ideas in mind, legislations have been enacted world over.

Let me now get back to the Indian context. In **Sheela Barse and Ors. Versus Union of India and Ors. [1986 3 SCC 632]**, there was an observation that it would be desirable if the Central Government initiates Parliamentary Legislation about child rights so that there is complete uniformity regarding the various provisions relating to children in the entire country. This and other observations in different case were in the context of the global development regarding child's rights.

The Juvenile Justice Act, 1986 and the Juvenile Justice Care and Protection Act, 2000 were enacted. This made the age of juvenility common to boys and girls as 18. The age had to be reckoned from the date of commission of the offence. Then came the traumatic and most horrible incident of rape and murder of a girl called '*Nirbhaya*' in 2012. One of the persons involved was a Juvenile aged 17 and half years. This led to a clarion call by the society to revisit the law and change the age of juvenility.

**Salil Bali Vs. Union of India and Anr. [(2013) 7 SCC 705]** and **Subramanian Swamy and Ors. Vs. Raju through Member, Juvenile Justice Board and Anr. [(2014) 8 SCC 390]** are two of the cases where the jurisdiction of the Court was invoked for having a re-look at the Juvenility Laws. The challenge was rebuffed by holding that what age should be treated as the age of a Juvenile is the decision of a Legislature and the Courts cannot enter into the arena.

Then came the J. J. Act, 2015, which made a departure from the earlier Acts. The age of juvenility under this Act is 18 years. The age of a child and of a Juvenile is the same, i.e., 18 years. Now, special reference needs to be made to Chapter 2 of the Act which deals with general principles for Care and Protection of Children.

I am particularly referring to Section 3 of this Chapter for the reason that, inherent in it, as I have said earlier would you find the orientation towards Deinstitutionalization and it would also provide a platform for understanding the parameters for grant of bail to a child in conflict with law.



I must tell you that I am eschewing from other technical details since those will form part of different topics which are being dealt with by Hon'ble Mr. Justice Ashwani Kumar Singh and Brother Rajeev Ranjan Prasad. Lest there may not be any repetition of the concepts, I am limiting my talk only to the issue of Deinstitutionalization and Parameters of Bail and Synchronization between those important aspects which have just been referred to.

Now the general principles of care and protection constitutes the general guidelines while implementing the provisions of the Act. The principles in short can be listed as :

- (I) Presumption of innocence of a child
- (II) A child has to be treated with dignity and worth
- (III) A child be given the right to be heard and to participate in all the processes affecting his interest
- (IV) The principle of best interest of the child which would allow full development of his potential

(V) The 5th guideline is something what I need to emphasize here. This is principle of family responsibility. The primary responsibility of care, nurture and protection of child shall be that of the biological family or adoptive or foster parents, as the case may be.

Now, if this is one of the guiding principles - a lodestar in the process of implementation of the Act, the concept of deinstitutionalization is, therefore, inherent in the entire scheme of the Juvenile Justice Act.

The other principles are of safety of a child meaning thereby that he be not subjected to any harm, abuse or maltreatment while in contact with the care and protection system and thereafter. This also is an indicator towards the orientation of deinstitutionalization. The framers of the law were aware of the inherent dangers of a large and closed institution and, therefore, the best interest of child will also include measures towards safety while in contact with the care and protection system. Positive measures for mobilizing family and community for the purposes of promoting well-being and facilitating identity of a child is also one of the principles which has been enumerated in the Act. The effort must be to reduce the vulnerabilities of children and need for intervention. Now this, therefore, requires a fallback upon the suitability and necessity principle which I have spoken before.





Only when intervention is required, it be resorted to and that also primarily and firstly the intervention to promote a system whereby a child in conflict with law or a child in need of care is treated, kept and controlled by a family.

The other principles are only reiteration of the global principles in the convention of child rights, Beijing principles etc., like non-waiver of rights, equality and non-discrimination, principle of right to privacy and confidentiality, non-stigmatization etc.

The principle of institutionalization as a measure of last resort has also been included in this list under Section 3, which specifies that a child shall be placed in institutional care as a step of last resort and that also after making a reasonable enquiry. This is synonymous with the principle of repatriation and restoration. Every child in the Juvenile Justice System shall have a right to be reunited with his family at the earliest and to be restored to same socio-economic and cultural status that he was in, before coming under the purview of the Act, unless such restoration and repatriation is not in his best interest.

If these principles are kept in mind by the Juvenile Justice Board, Children's Court, Sessions Court in some special cases, District Magistrates in case of foster and in cases of child in need of care and protection and the Revisional Court, the child rights shall be very well sub-served.

After having said all this there is very little which is left to be explained regarding the parameters for grant of bail. Section 12 of the Act provides that when any child in conflict with law who has committed a bailable or non-bailable offence is apprehended or detained by police or he appears or brought before the Juvenile Justice Board, such person shall notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of any fit person. Probation Officer and fit persons have been defined under the Juvenile Justice Act.

A juvenile shall not be released on bail if there appears reasonable grounds for believing that his release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or would defeat the ends of justice. In that case the board shall record the reasons for denying bail and the circumstances which led to such a decision.





What shall be done thereafter has also been specified under Section 12. If he is not released on bail by the Officer-in-Charge of the police station, such officer shall keep the child in observation home in such manner as may be prescribed until the child is brought before the Board. If the child is not released by the Board, the Board shall make an order sending him to an observation home or to a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the child as may be specified in his order.

Another condition which has been provided under Section 12 of the Act is that when a child in conflict with law is unable to fulfill the conditions of bail order within seven days of such bail order, such child shall be produced before the board for modification of the conditions of bail. A plain reading of Section 12 makes it obvious that the nature and gravity of offence is not the relevant consideration while deciding the application for grant of bail filed by a juvenile in conflict with law.

Not only the grant of bail is the rule but rejection an exception and that also only when one of the grounds enumerated in Section 12 is made out viz. 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 otherwise defeat the ends of justice. These grounds are exhaustive. An application could not be rejected on other grounds.

The approach of the Juvenile Board or any Court dealing with the juvenile must be different from the approach of the Courts while dealing with the provisions of bail under Sections 437, 438 and 439 of the Code of Criminal Procedure. The legislature has purposely given an overriding effect to the provision of Juvenile Justice Act, 2015 by clearly mentioning that the provisions of Section 12 would operate notwithstanding anything contained in Cr.P.C. or any other law for the time being in force. In this context, the report of the Probation Officer assumes great importance because it contains social investigation report of the child in conflict with law.

If the exceptions enumerated in Section 12 are not made out, the only consequence is release of the juvenile. There cannot be any rejection of bail on the nature and gravity of the allegation because that would be completely contrary to the statutory mandate of Section 12.



One of the requirements under the Act is that if a child is in conflict with law, is apprehended, the Probation Officer or the Child Welfare Officer would be entrusted with the task for preparation and submission of social investigation report within two weeks and submitting it to the Board. Such report shall contain information regarding the antecedents and family background of the child and other material circumstances which are likely to be of assistance to the board for making the inquiry.

I am conscious of the fact that there are two other speakers and therefore I am eschewing from making inroads into their topics. Precisely, for this reason I am not referring the provisions contained in Sections 14, 15, 18 and 19 of the Act which deals with the inquiry by the Juvenile Justice Board, preliminary assessment into heinous offences by the Board, orders which could be passed against a child found to be in conflict with law and the powers of the Children's Court. The concept of petty offences, serious offences, heinous offences and what is to be done in these offences would be dealt with by the other speakers. All that I need emphasize is that the principles which the Board is required to exercise while dispensing with an application for bail would be equally applicable to the Children's Court as well.

In this context, I would like to refer the case of ***Lalu Kumar @ Lal Babu @ Lal*** [2019(4) PLJR 833] authored by Justice Ashwani Kumar Singh and I am sure both the speakers after me would refer to this judgment, as it is a compendium of all the concepts of Juvenile Justice Act.

The aforesaid case was first heard by a Single Judge of Patna High Court who doubted the maintainability of an appeal against the order of the Children's Court which had rejected the prayer for bail of the juvenile offender. Against the aforesaid order of rejection by the Children's Court Lal Kumar had filed an appeal under Section 101 (5) of the Act. The Single Judge referred the matter to the Division Bench by formulating certain questions to be answered *viz.* the methodology of treating a child between the age group of 16 to 18 years who has committed a serious or heinous offence and what should be the considerations in grant of bail by a Children's Court. The Division Bench, after referring to the entire statutory provisions under the Juvenile Justice Act of 2015, formulated further ancillary questions with respect to various issues including as to whether the powers of the board in matters of bail is the same in case of Children's Court also and whether seriousness of offence could be a ground for rejecting the bail in case of





the child offender. Both the questions were answered in the affirmative and it was categorically held that the same considerations which weighs with the Juvenile Justice Board must be applied by the Children's Court and the gravity of offence is no indicator or material for refusing the bail.

Now one aspect over which there is some divergence of opinion need be stated. As you all know, Section 12 of the Act provides exceptions to the grant of bail to a juvenile *viz.* that the bail could be refused to a juvenile who in the opinion of the board would get into association with any known criminal or his release would expose him to moral, physical or psychological danger or his release would defeat the ends of justice. There is no difficulty so far as the first two exceptions are concerned. The difficulty, if at all it can be perceived, is with respect to the condition of refusal of bail if it defeats the ends of justice. Let me refer to a case where this divergent note has been expressed.

This case is ***Raju @ Ashish Vs. the State of Uttar Pradesh [2018 SCC OnLine All 3100]***, the informant had alleged that Raju, the appellant or the revisionists and another had eve-teased his daughter and had also molested her. This was objected by the son of the informant. An altercation took place between the son of the informant and the two accused persons. The son and the daughter of the informant were thereafter pushed into a nearby well, leading to their death. The passersby, on hearing the commotion, rushed to the aid of the victims but the accused persons, one of whom was a juvenile, managed to effect his escape by brandishing a firearm. Both, the son and the daughter of the informant died. The juvenile was between the age group of 16 to 18 years. The Juvenile Board as well as the Children's Court refused to release the offender on bail.

Before the High Court of Allahabad, it was argued that the Courts below have gone on the merits of the accusation and have not adhered to the principles in Section 12 of the Act while deciding the prayer for bail. The High Court, in the revisional jurisdiction, though expounded that there could not be any doubt about the Juvenile Justice Act being a beneficial legislation, intended to reform the juvenile in conflict with law but held that the law also demands that justice should be done not only to the accused but to the accuser. The aspect of gravity of offence cannot be taken to be wholly irrelevant. Merely because a juvenile is declared to be so, he is not entitled to be released on bail as a matter of right. The Bench went on to say that the Act has a solemn purpose to achieve *viz.* the betterment of the juvenile offenders. It cannot be a shelter home of those who



have criminal proclivities and psychology.

The Act has a reformatory approach, but it does not completely shun retributive theory. It is precisely for this reason, the argument goes, that the legislature has preserved larger interest of society even in cases of bail to a juvenile and therefore one of the grounds is that bail could be refused if release would defeat the ends of justice.

The Court did not accept the argument on behalf of the revisionists that the ground '*defeat the ends of justice*' must be read '*ejusdem generis*' with the first two grounds and not with reference to the gravity of offence. The gravity of the offence was held to be certainly a relevant factor though not decisive. The High Court, therefore, did not get swayed in favour of the offender and held that it was a double murder preceded by molestation of a young girl and therefore the offender does not deserve to be released as it would defeat the ends of justice.

I would not know whether this approach is correct. If I were to decide the case I would have looked at other factors *viz.* the mental health of the offender, his social background and if I would have felt that the best interest of that juvenile would be served in keeping him in the observation home I would have refused to release him. The decision would definitely not have been based on the gravity or the depravity of the offence. The assessment of the criminal proclivity would be a relevant factor. Since the entire Act is geared towards the benefit of the child, the betterment of the child offender with the hope and trust that the care and protection given to him would ultimately restore such child offender into a productive asset of society, the last of the conditions or exceptions for refusing bail ought to be read '*ejusdem generis*' with other grounds. I have told you the reasons for saying so.

I would not be satisfied if I don't refer to another case from Bombay decided by Hon'ble Justice Dum Sheshadri Naidu. **Muhammad Huzaifa Javed Ansari Vs. The State of Maharashtra**[Criminal Appeal No. 1153 of 2018, dated 15<sup>th</sup> July 2019]. In that case a 17 ½ years old boy had brutally killed a 3 ½ years old child. Another associate of his, a little younger, 16 ½ years was also part of the conspiracy and had also helped the older offender in causing the disappearance of the evidence and helping him escape the police custody. The older of the juveniles was declared fit to be tried as an adult. The younger one was held to be fit for being tried as a juvenile. Two appeals were filed, one by the Government against the Board's decision





to try the younger offender as a juvenile and the other, by the older juvenile against the decision of the Board to try him as an adult. Both the appeals were dismissed by the Sessions Court. Against the orders passed by the Sessions Court, the father of the victim preferred an appeal. A writ petition also was filed by the older juvenile in which the victim's father joined as an intervener. While dealing with such appeal and the writ petition, notwithstanding the wrong forum invoked by the older juvenile, Justice Naidu went through the entire gamut of the Act and approved of the order by which the younger juvenile was directed to be tried as a juvenile but set aside the order by which the older juvenile was directed to be treated as an adult. He too was held to be a person who was required to be tried as a juvenile.

While passing the aforesaid judgment Justice Naidu expounded the grounds which made a juvenile an adult besides the numerical called age. He has referred to a plethora of research on the subject and works of specialists like 'Arron Kaupchik' of the *University of Delaware* and after relying on the medical health report and the social investigation report found that both the offenders were required to be dealt with as juveniles.

An interesting observation was made by Judge Naidu who says, and I quote *"let us not forget that public opinion is versatile. One day it weeps for the victim and cries vengeance, sometimes more than the victims themselves want. The next, it decries prison as a school of crime."*

He, therefore, concurs and reckons that merely on the premise that the offence is heinous and that it lends to the societal volatility of indignation, one ought not to brace for a juvenile recidivism. Retributive approach *vis-a-vis* juveniles needs to be shunned unless there are exceptional circumstances involving gross moral turpitude and irredeemable proclivity for the crime.

Condemned, any juvenile is going to be a mere number in a prison for lifetime; reformed, he may redeem himself and may become a value addition to the society. Let no child be condemned. This approach appears to be more in tune with the spirit of Act.

That is all for the concept of deinstitutionalization and the parameters for bail. I would end my talk with what N.K. Jemisin, an American Science Fiction and Fantasy writer, who has also worked as a counseling psychologist has said about children *"There are no greater groups of warriors than a*

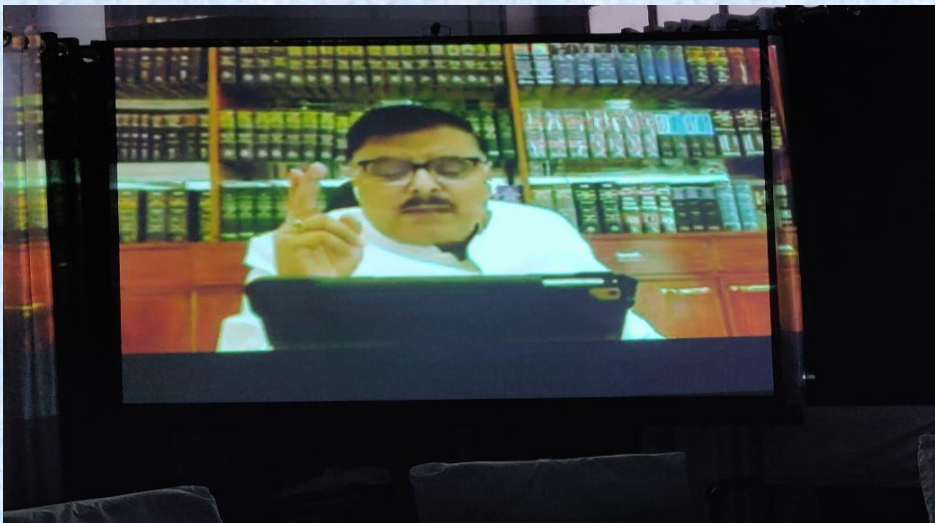




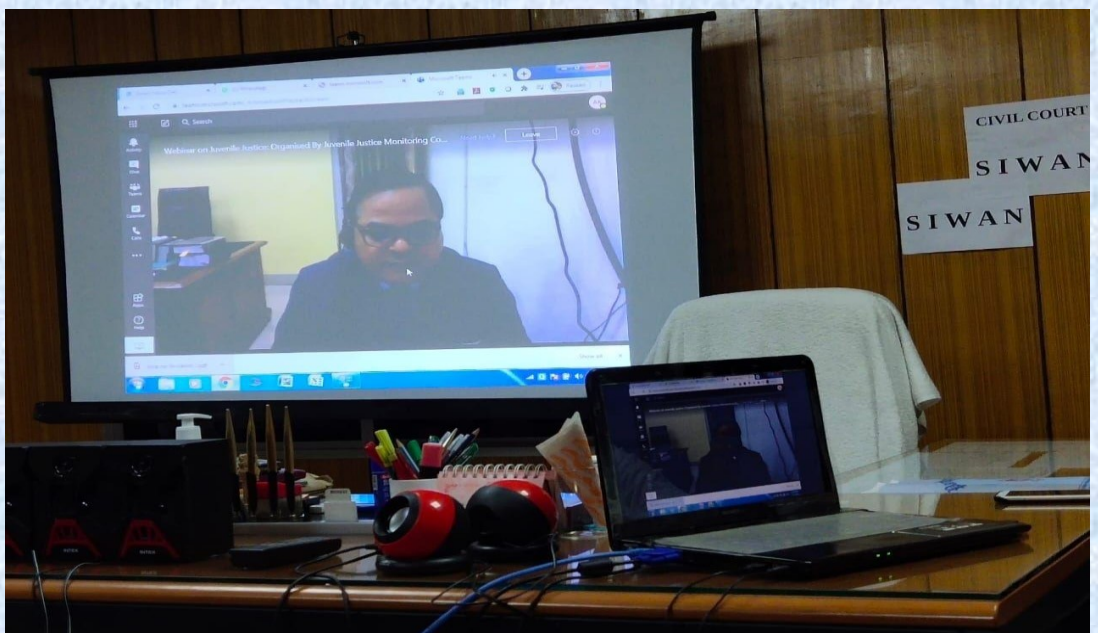
*society protecting their children". Children are the world's most valuable resources and its best hope for the future.*

***Thank you and over to the Moderator.***





*Pics of  
the  
Webinar*





**Inauguration of the Website of the Juvenile Justice Monitoring Committee, Patna High Court.**  
<http://patnahighcourt.gov.in/jjs>







**Address By :**  
**Hon'ble Mr. Justice Rajeev Ranjan Prasad**  
**Judge, Patna High Court**

## **Creating A Child Friendly Atmosphere and Protective Environment during Inquiry and Trial under the J.J. Act, 2015 : Issues and Challenges.**

**Greetings to all of you,**

In our pursuit of sensitizing all the stakeholders and bodies responsible to ensure implementation of the aims and objects of the Juvenile Justice (Care and Protection of Children) Act, 2015 we have assembled today through this virtual mode during the pandemic period.

The topic of this session is '*Creating a Child Friendly Atmosphere and protective environment during enquiry and trial under the Juvenile Justice Act (in short 'J.J. Act, 2015) - Issues & Challenges*'.

Therefore, while talking on this topic at the outset we need to ask a question to ourselves as to why at all a concept of child friendly atmosphere and protective environment has been brought into existence under the J.J. Act, 2015. The answer is not difficult.

The background in which after the *Nirbhya's* case the J.J. Act, 2015 has been brought into existence has been eloquently dealt with in the case of **Lalu Kumar Vs. State of Bihar, reported in 2019(4) PLJR 833**, delivered by a Division Bench of our High Court comprising Hon'ble Mr. Justice Ashwani Kumar Singh and Mr. Justice Birendra Kumar. The concept of double safety valve operating at the stage of preliminary assessment by the board and again under section 19 before the Children's Court to protect the interest of a child has been well explained in the judgment, thus, without going into much detail behind the legislative history of the J.J. Act, 2015, it may be stated that a child has always been treated as a national asset. Under Section 2 clause (35) a child below the age of eighteen years is defined as 'juvenile'. As defined under Section 2 clause (13) a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence is known as child in conflict with law. Similarly, Section 2 clause 14 defines '*a child in need of protection and care.*'



*“A person is a person, no matter how small”* said Dr. Seuss, an American children’s author. In the case of **Sheela Barse (II) Vs. Union of India, reported in (1986) SCALE (2) 230** which dealt with abandoned or destitute children, the Hon’ble Supreme Court of India having gone through the national policy for the welfare of the children took note of the relevant part thereof as under –

*“...the nation’s children are a supremely important asset. Their nurture and solicitude are our responsibility. Children programme should find a prominent part in our national plans for the development of human resources, so that our children grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with the skill and motivations needed by society. Equal opportunities for development to all children during the period of growth should be our aim, as this would serve our larger purpose of reducing inequality and ensuring social justice.”*

The Hon’ble Supreme Court took a view in the case of **Sheela Barse(II)** that the State is duty bound to look after the child with a view to ensure full development of the personality and that is why statutes dealing with the children provide that a child shall not be kept in a jail. It was also directed that on no account should children be kept in jail and if a State government does not have sufficient accommodation in its remand home or observation home for children, they should be released on bail instead of being subjected to incarceration in jail. If we believe Nelson Mandela, then it would be important to know what Nelson Mandela had to say about the children. Nelson Mandela said:- *“There can be no keener revelation of a society's soul than the way in which it treats its children.”*

Similarly, *Haim Ginott*, a child psychologist, psychotherapist and parent educator said, *“children are like wet cement whatever falls on them makes impressions”*.

The treatment of a juvenile in a friendly atmosphere, is a duty imposed upon the State and all the stake holders. The inquiries and trials involving a juvenile in conflict with law are required to be taken up with some compassion towards them and juveniles in conflict with law are entitled to the presumption of innocence. The J.J. Act, 2015 requires the conduct of enquiry and trial of a juvenile in conflict with law with utmost degree of sensitivity, care and empathy for the child. The juveniles are not to be traumatized by the court proceedings and it is the duty of the institution dealing with the juveniles at all levels to create a friendly atmosphere and environment to the juveniles.





Now coming to the scheme of the J.J. Act, 2015 – the opening statement which is also called preamble of the Act reads: -

*“An Act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, herein under and for matters connected therewith or incidental thereto.”*

The J.J. Act, 2015 acknowledges that our constitution confers powers and impose duties, under clause (3) of Article 15, clauses (e) and (f) of Article 39, Article 45 and Article 47, on the State to ensure that all the needs of children are met and that their basic human rights are fully protected. The Government of India has agreed on the 11th December 1992 to the Convention on the Rights of the Child, adopted by the General Assembly of United Nations, which has prescribed a set of standards to be adhered to by all State parties in securing the best interest of the child. There are various other related international instruments which prescribe Standards on the rights of the child, they are United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) and the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (1993). Thus, all of us should be very clear about the rights of the children and our duties towards them as a State, as a childcare institution, a Juvenile Justice Board, Children Court or as a constitutional court of law.

Apparently, principles of ‘*parens patriae*’ i.e. the State to act as a guardian for the children has now shifted to the right approach which respects the constitutional and procedural rights of a child in conflict with the law. A juvenile is thus required to be treated in a manner consistent with their dignity and self respect. The J.J. Act, 2015 strengthens the protective approach towards children in conflict with law as well as children in need of care and protection. The scheme of the Act suggests that a child in conflict with law has to be segregated according to age, gender, physical and his mental status and the nature of offence committed by the child in conflict with law would also be a factor to be considered for purpose of segregation.



The Act, envisages to create three categories of violations. A petty offence has been defined under clause (45) of Section 2 which includes the offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years. A serious offence is defined under Clause (54) of Section 2 which includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force is imprisonment between three to seven years and a third category is called heinous offences as defined under Section 2 clause 33. A heinous offence includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more.

### **Concept of child friendly atmosphere and protective environment**

Whenever a child in conflict with law is apprehended by the police, it is the duty of the police in terms of Section 10 that such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, who shall produce the child before the Board established under Section 4 of the Act. The Board is headed by a Principal Magistrate with at least three years experience and two social workers. Thus, the first step towards a child friendly atmosphere and protective environment begins right from the stage of his apprehension. The child in conflict with law must be produced before the Board within a period of twenty-four hours of apprehending him excluding the time necessary for the journey.

If we refer to Rule 8 of the Bihar Juvenile Justice (Care and Protection of Children) Rules, 2017 it would further appear that the police is not empowered to lodge a FIR except where heinous offence is alleged to have been committed by the child or when such offence alleged to have been committed jointly with adults. In all other matters, the Special Juvenile Police Unit or the Child Welfare Police Officer shall record the information regarding the offence alleged to have been committed by the child in the general daily diary followed by a social background report of the child in prescribed form and circumstances under which the child was apprehended and such report will be forwarded to the Board.

Under the Rule, 2017 [*Bihar Juvenile Justice (Care & Protection of Children) Rules, 2017*] the power to apprehend a child shall only be exercised with regard to heinous offences, unless it is in the best interest of the child. For all other cases involving petty and serious offences and cases where apprehending the child is not necessary in the interest of the child, the police or Special Juvenile





Police Unit or Child Welfare Police Officer shall forward the information regarding the nature of offence alleged to have been committed by the child along with his social background report in '*Form-1*' to the Board and intimate the parents or guardian of the child as to when the child is to be produced for hearing before the Board.

Police Officer apprehending the child in conflict with law has to place him under the charge of the Special Juvenile Police Unit or the Child Welfare Police Officer, and further police officer has been specifically restrained under sub-rule (3) of Rule 8 which says that the police officer apprehending a child alleged to be in conflict with law shall:

- (i) not send the child to a police lock-up and not delay the child being transferred to the Child Welfare Police Officer from the nearest police station. The police officer may under sub-section (2) of section 12 of the Act send the person apprehended to an observation home only for such period till he is produced before the Board i.e. within twenty-four hours of his being apprehended and appropriate orders are obtained as per rule 9 of these rules;
- (ii) not hand-cuff, chain or otherwise fetter a child and shall not use any coercion or force on the child;
- (iii) inform the child promptly and directly of the charges levelled against him through his parent or guardian and if a First Information Report is registered, copy of the same shall be made available to the child or copy of the police report shall be given to the parent or guardian;
- (iv) provide appropriate medical assistance, assistance of interpreter or a special educator, or any other assistance which the child may require, as the case may be;
- (v) not compel the child to confess his guilt and he shall be interviewed only at the Special Juvenile Police Unit or at a child-friendly premises or at a child friendly corner in the police station, which does not give the feel of a police station or of being under custodial interrogation. The parent or guardian, may be present during the interview of the child by the police;
- (vi) not ask the child to sign any statement; and
- (vii) inform the District Legal Services Authority for providing free legal aid to the child.
- (viii) The Child Welfare Police Officer shall be in plain clothes and not in uniform.



- (ix) The Child Welfare Police Officer shall record the social background of the child and circumstances of apprehending in every case of alleged involvement of the child in an offence in Form 1 which shall be forwarded to the Board forthwith.
- (x) When the child is released in a case where apprehending of the child is not warranted, the parents or guardians or a fit person in whose custody the child alleged to be in conflict with law is placed in the best interest of the child, shall furnish an undertaking on a non judicial paper in Form 2 to ensure their presence on the dates during inquiry or proceedings before the Board.

Thus, you may easily find out that a child friendly atmosphere and protective environment is in fact the heart and soul of the J.J. Act, 2015. It starts right from the stage of apprehension of a juvenile in conflict with law.

Here it is important to know that very cautiously the legislatures have used the word '*apprehended*' and not the word '*arrested*'. The word '*arrest*' is stigmatic; therefore, the said word has been purposely not used in the J.J. Act and the rules framed thereunder.

When a child in conflict with law is apprehended but cannot be produced before the Board or even a single member of the board due to child being apprehended during odd hours or distance, child shall be kept by the child welfare officer in the observation home in accordance with Rule 69-B of these Rules or in a fit facility. Rule 69-G provides the procedures to be adopted in the Child Care Institutions. New sets of clothes, bedding and several other outfits and equipment as per list under Rule 30 are to be provided.

On production of the child before the board, the board has to review the materials such as the social background report of the child, circumstances of apprehending the child and offence alleged to have been committed by the child. At this stage the board has to take a view and pass such orders as it may deem fit and proper including orders under Section 17 and 18 of the Act. Then at first appearance, if it is found that the allegations are unfounded or the child is alleged to be involved in petty offences, the board may dispose of the case by passing appropriate order under those provisions of the Act. The board may also direct the child to be kept in childcare institution, as appropriate if necessary, pending enquiry as per order in prescribed form. In terms of Section 94 Board shall determine the age of the child based on appearance and after recording its observations proceed with the inquiry under Section 14 or Section 36 without waiting for further confirmation of age. Where the Board has any doubt then they take the process of age determination by seeking evidence:-





- i. Date of birth certificate from school, matriculation or equivalent certificate
- ii. Birth certificate of Corporation or Municipal Authority
- iii. In absence of above, ossification test shall be undertaken.

From here the enquiry begins before the Board. The Board shall notify the date of hearing, but such dates should not be fixed later than 15 days of the first summary enquiry. Board may also seek social investigation report from the Probation Officer, or in case a Probation Officer is not available, the Child Welfare Officer or social worker concerned, through an order.

If a child is on bail and he fails to appear before the Board, on the date fixed for hearing, and no application is moved for exemption on his behalf or there is not sufficient reason for granting him exemption, the Board shall, issue to the Child Welfare Police Officer and the Person-in-charge of the Police Station directions for the production of the child.

If the Child Welfare Police Officer fails to produce the child before the Board even after the issuance of the directions for production of the child, the Board shall instead of issuing process under section 82 of the Code of Criminal Procedure, 1973 pass such orders as appropriate under section 26 of the Act which deals with the run away child in conflict with the law. At this stage, any police officer may take charge of a child in conflict with law who has run away from observation home or place of safety or from care of person or institution under whom the child was placed under the Act. When a runaway child is apprehended and produced before the board the board will pass appropriate order that the child either to be sent back to the institution or the person from whose custody the child ran away or any other similar place or person. Additional directions regarding special steps may also be passed in the best interest of the child but under sub-Section (4) of Section 26 it is clearly provided that no additional proceeding shall be instituted in respect of such child.

### **Procedures to be adopted in course of enquiry**

In case of heinous offence alleged to have been committed by child who has completed the age of 16 years the child welfare officer shall produce the statement of witnesses recorded by him and other documents prepared during the course of investigation within a period of one month from the date of first production of the child before the board, a copy of which shall be given to the child or the parents or guardian of the child.

The rule specifically provides under sub-rule (7) and (8) of the Rule 10 that when a witness is produced for examination in an inquiry relating to a child alleged to be in conflict with law the board shall ensure that the inquiry is not conducted in





the spirit of strict adversarial procedure and it shall use the powers conferred by Section 165 of the Indian Evidence Act, to interrogate the child and proceed with presumption in favour of the child. So here we can mark that a Juvenile Justice Board, before whom the inquiry is going on, the witnesses should not be examined like a strict adversarial process. Here the Board must act invoking the powers under section 165 of the Indian Evidence.

Act which in fact confers power on a Court of law to ask questions to the witnesses etc.. Here also the board must presume in favour of the child.

This provision is inserted with a view to provide protective environment to the child in conflict with law in course of enquiry. The board must proceed with the matter with the presumption in favour of the child.

At the same time while examining a child to be in conflict in law and recording his statement during enquiry under this Section of the Act, the board shall address the child in a child friendly manner in order to put the child at ease and to encourage him to state the facts and circumstances without any fear, not only in respect of the offence which has been alleged against the child, but also in respect of the home and social surroundings and the influence or the offence to which the child might have been subjected.

Even under Section 15 of the Act read with Rule 10A of the Rules, 2017 while making preliminary assessment the child must be presumed to be innocence unless proved otherwise. After preliminary assessment if the board passes an order that there is a need for trial of the child as an adult, it shall assign reason for the same and a copy of the order shall be provided to the child.

The procedure in relation to the Children's Court as contained in Section 19 of the Act read with Rule 13 of the Rules of 2017 also prescribe similar provision as envisaged under sub-rule (7) and sub-rule (8) of Rule 10 of the Rules 2017 applicable to the inquiry before the Board. Here also it is to be kept in mind that only because a child in conflict with law has been found fit to be tried as an adult, it does not mean that the protection of the child friendly atmosphere are not be provided in the Children's Court. Even if a Children Court decides that there is a need for trial of a child as an adult, it shall follow the procedure prescribed by the Cr.P.C. of trial by sessions but by maintaining a child friendly atmosphere and the final order passed by the Children's Court shall necessarily include an individual care plan for the child prepared by a Probation Officer or Child Welfare Officer. Where Child has been found involved in the offence, the child may be sent to the place of safety till the age of 21 years and while he remains at the place of safety, there shall be yearly review by the Probation Officer or the Child Protection Officer of the District Child



Protection Unit or a social worker to evaluate the progress of child and the reports shall be forwarded to the Children's Court. When the Child attains the age of 21 years and is yet to complete the term of stay, the Children's Court shall interact with the child in order to evaluate whether he has undergone reformatory changes and can he contribute as a member of the society. After making the evaluation, the Children's Court may decide to either release the child forthwith or release on execution of personal bond with or without sureties for good behaviour. Several other measures are prescribed under the J.J. Act and the Rules framed thereunder. Under Clause (ii) of sub-section (2) of Section 20 of the J.J. Act, if the Children's Court decide that the child shall complete the remainder of his term in a jail then he may be sent to jail to serve the remainder of his term.

We have by now understood the child's right to have a friendly inquiry and protective environment in course of such inquiry and trial, but a Million-dollar question is whether the State and all other stake holders can provide that atmosphere and protection? What are those issues and challenges which are staring at us till date?

There are various challenges too. From my experience as a Judge of the Constitutional Court by virtue of dealing with the matters relating to the juveniles coming before me in Revision Applications seeking setting aside of the orders passed by the appellate court and the J.J. Board, I find that despite there being all pious wish of the legislatures under the Statute, the Hon'ble Supreme Court and the High Courts issuing several reformatory directions from time to time, we have yet to achieve the goal. The issues may be briefly summarized as under: -

The first challenge before us is to sensitize the police officer dealing with the matters involving a juvenile. The setting up of a special juvenile police unit in every district and city with an intention to coordinate and upgrade the treatments of juveniles is the first and foremost issue. In this regard, directions have been issued by the Hon'ble Apex Court in the case of **Sampurna Behrua and Others Vs. Union of India** and Others reported in (2011) 9 SCC 801 to the Home Department and Director General of Police. I have been informed that in the State of Bihar till date there is no special juvenile police unit. In the name of special juvenile police the Dy. S.P. at Headquarter level has been made the head of the unit and a Station House Officer of police station has been notified as nodal officer. They remain in their police uniform and are simultaneously performing their regular duty as a police officer.





Police officers are registering F.I.Rs by giving exaggerated age of an apprehended juvenile and they bring the juveniles in court for production together with hardened criminals. The attitude in Khaki dress remains that of powerful police personnel. Sometimes juveniles are brought handcuffed with adult accused of crime.

Imparting training to the officers posted in the Special Juvenile Police Unit is another big issue and challenge towards creating a child friendly atmosphere. Some of the issues which were identified by the Hon'ble Supreme Court in **Sampurna Behrui's** case are still looking for the attention of the State Government towards: -

- 1) Establishment of the Special Juvenile Police Unit in every police station, their training and upgrading the police training manual.
- 2) Lack of infrastructure is one of the fundamental issues and challenge which we are facing today. I am told that in the premises in which the Juvenile Justice Board are functioning, there is no waiting room much less a child friendly meeting room for the child in conflict with law. There is no counseling rooms available where a child in conflict with law may meet his parents or a counselor.
- 3) There is need of psycho-socio psychologist under the Act and Rule, the State has to prepare an expert panel of psycho-socio-psychologist instead a child is sent to a clinical psychologist posted in a Sadar Hospital, little realizing the difference in the clinical psychologist and a socio-psychologist. The psycho-social factors of children in conflict with law in Indian context are required to be taken care of. It may be:
  - i. Individual factor
  - ii. Family factors and
  - iii. Community factors, which may be studied only by a psycho-social psychologist.

Therefore, it is a high time for the State Government to look upon these requirements and by this conference and seminar if the State Government may be convinced about the requirement of the psycho-social psychologist, I think it would be a great gain to take for all of us.

- 4) Appointment of social workers in the Juvenile Justice Board is another challenge. The social workers are also empowered to conduct an inquiry independent of the Principal Magistrate in terms of the J.J. Act, though the final disposition of the inquiry cannot be done without the Principal Magistrate, therefore a big responsibility has been cast upon the social workers



to make a significant contribution during inquiry and at the time of disposition. Thus, the training of the Principal Magistrate as well as the social workers is of utmost importance, even the rules provide the same. The nature of training required to the Principal Magistrates and social workers are to be structured in such a manner that it becomes meaningful because the effect of such training would be vital and the same is likely to reflect in their dispositions. They are required to be sensitized from the point of view of the child rights and the related laws.

- 5) The next issue is that there are large number of inquiries pending before the Juvenile Justice Boards, therefore it is the obligation of the Juvenile Justice Board to sit on daily basis. If the inquiry remains pending for a considerable period it serves no purpose.
- 6) The quality of legal aid and lawyers who assist the juveniles in conflict with law is another issue that must be taken up at the earliest opportunity.
- 7) *The duty of a Probation Officer and the role played by him are to be understood. An accurate social investigation report prepared by a Probation Officer would help the Juvenile Justice Board in passing an appropriate order in course of inquiry as also at the dispositional stage. Since the role of a Probation Officer is very important in making sure that a juvenile in conflict with law gets proper opportunity to represent himself and further that the Juvenile Justice Board conducts a meaningful inquiry with the aid of the reports submitted by the Probation Officer, it is necessary that the Probation Officer be also sensitized, awareness programme be structured for them to know their duties and responsibilities. By imparting appropriate training to the Probation Officer we can assure a better child friendly atmosphere and protective environment in course of inquiry.*

*Presently, we find that only stereotype social investigation reports are coming. In the name of preparing the report only few columns are being filled up, mostly based on perceptions of a probation officer. There is no scientific and psychological data-based study.*

*Thus, while summing up the topic, it may be safely stated that we require three 'A' for ensuing child friendly atmosphere by the stakeholders*

- i. Attitude- to ensure that every process should be child friendly.*
- ii. Ambience- Attitude should be used to create ambience showing child friendly atmosphere.*





iii. *Alertness- Every stakeholder should be kept alert that there should be child friendly atmosphere while dealing with a child.*

*And at the end I quote what Barbara Bash the former First lady of the United States said*

*“you have to love your children unselfishly. That is hard. But it is the only way.”*

*Thank You. Thanks everybody.*







## ***Inauguration of the Juvenile Justice Secretariat, Patna High Court.***



Pic.- On the inauguration of Juvenile Justice Secretariat, Patna High Court, Patna. From left : - Justice A. P. Sahi, the then Chief Justice, Justice Ashwani Kumar Singh, Justice Jyoti Saran, Justice Ahsanuddin Amanullah, Hon'ble Judges, Patna High Court.



In this pic. left to right : Justice Anjana Mishra, Justice Ashwani Kumar Singh, Justice Rajeev Ranjan Prasad, Justice Jyoti Saran, all Hon'ble Judges, Patna High Court and Justice A. P. Sahi, the then Chief Justice, Patna High Court, Patna.



In this pic. left to right : Justice Ashutosh Kumar and Justice Ahsanuddin Amanullah, both Hon'ble Judges, Patna High Court, Patna.



*An inside view of the Juvenile Justice Secretariat, Patna High Court.*





**Address By : -  
Hon'ble Mr. Justice Ashwani Kumar Singh  
Judge & Chairperson, Juvenile Justice Monitoring  
Committee, Patna High Court.**

**Navigation of Protective Potentials of the J.J. Act, 2015 relating to a Child in Conflict with Law who has completed or is above 16 Years of age and is alleged to have committed heinous offence and the Remedy of Appeal therein.**

**Good Afternoon,**

The excellent speakers before me have focused on topics dealing with deinstitutionalization, right to bail to a juvenile in conflict with law and the importance of creating a child friendly atmosphere and protective environment while dealing with a child in conflict with law during inquiry and trial. I am sure that prior addresses made by Brother Ashutosh and Brother Rajiv has raised awareness on child rights which would go a long way while adjudicating matters of children in conflict with law in the future. Their presentation style was superb, engaging, energetic and educational.

To take it forward, I would touch upon the issue that has generated a lot of debate amongst child right activists, social workers, jurists and law makers on the most contentious provision i.e. Section 15 of the JJ Act, 2015 (henceforth "Act") mandating the Juvenile Justice Board to transfer cases involving a child between 16-18 years, alleged to have committed a heinous offence, to a Children's Court.

In order to better understand Section 15 of the Act, it is necessary to trace the concept, philosophy and jurisprudence of Juvenile Justice System in India. Right from inception, the philosophy behind the Juvenile Justice System is to reform, rehabilitate and reintegrate a child in conflict with law and a child in need of care and protection.



The first doctrine in dealing with children of both the categories is the doctrine of '*parens patriae*', which allows the State to step-in and serve as a guardian for children, the mentally ill, the incompetent, the elderly or the disabled persons, who are unable to care for themselves. With passage of time, the principle of '*parens patriae*' shifted to the rights approach, focusing on the constitutional and procedural rights of a juvenile. The basic tenet is that a child in conflict with law should be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and, which takes into account the child's age and the desirability of promoting the child's reintegration so that they assume a constructive role in the society.

Before the Juvenile Justice Act was, formally enacted in 1986, I would take you to 2 of the provisions of the Penal Code which were enacted in 1860 i.e., section 82 and section 83. Section 82 states, Children under the age of 7 years as '*doli incapax*' that means they are not competent to do any crime. So there is no culpability up to the age of seven. Under section 83, it is said that children between 7 and 12 years of age would not be presumed to be guilty and prosecuted if they had not attained sufficient maturity and the capability to understand the consequences of the conduct.

The first legislation enacted for children in India was the Apprentices Act, 1850 which was followed by a series of legislations in India to safeguard the rights of children. In 1897, the Reformatory Schools Act was enacted. The turning point in the juvenile justice system was the report of the Indian Jail Committee 1919-1920 which led to adoption of the Children's Act in various states like the Madras Children Act, 1920, the Bengal Children Act, 1922, and the Bombay Children Act, 1924. After Independence, the parliament passed the Children Act, 1960, which was made applicable in centrally administered Union Territories and the States having no juvenile justice legal system. They were made free to adopt it.

The necessity of a uniform Children Act across the Country gave rise to enactment of Juvenile Justice Act, 1986 ("1986 Act") which was influenced by '*UN Declaration of the Rights of the Child, 1959*' and '*UN Standard Minimum Rules for the Administration of Juvenile Justice ('The Beijing Rules'), 1985*'. The detention of juveniles in police lock-up or jail was abolished by the 1986 Act. It also recommended to establish Juvenile Homes for the reception of neglected juveniles, Special Homes for reception of delinquent juveniles and Observation Homes for the temporary reception of juveniles during pendency of the inquiry and trial and Aftercare Homes for the purpose of taking care of juveniles after





discharge from Observation Homes or Special Homes. The object of the 1986 Act was to protect a juvenile from criminalization, penalization and stigmatization. This repealed various Children's Acts enacted in different States and provided a uniform Juvenile Justice System in India which categorized Boys under the age of 16 and girls under the age of 18 as Juveniles.

Noticing various shortcoming in the 1986 Act when India signed and ratified the '*UN Convention of Rights of Children*' in December, 1992, the 1986 Act was repealed and replaced by The Juvenile Justice (Care and Protection of Children) Act, 2000 ('2000 Act'), which came into force from 1st April 2001. The 2000 Act defined the term '*juvenile*' as a person who has not completed the age of 18 years. So the distinction in the '*1986 Act*' regarding age of juvenile of a girl child and a male child being 18 and 16 was abolished by the 2000 act and under this Act, no child, for any reason could be lodged in a police lock-up or in jail; and any police officer or Special Juvenile police unit or the designated police officer had to hold an enquiry in the prescribed manner and after the enquiry if the committee was of the view that the said child had no family or ostensible support, it could allow the child to remain in the Children's Home or Shelter Home till suitable rehabilitation is found for him or till he attains the age of 18. Thus, the legislature arrived at the position that an individual below 18 years should be dealt with or treated as a child in need of care. Further, the 2000 Act prohibited imposition of death penalty, sentence of imprisonment or use of jails or police station for keeping children under any circumstance. The position that children below 18 years should be dealt with or treated by providing them with psychological support and opportunities to reform continued until 2015.

The brutal gang rape and subsequent death of Nirbhaya in 2012 gave rise to a debate that the provisions and system under the 2000 Act are ill equipped and needed modification to tackle the children in the age group of 16 to 18. After an extensive debate on this issue, the JJ Act, 2015 came into force on January 15<sup>th</sup>, 2016. It governs children alleged and found to be in conflict with law and children in need of care and protection. It classifies offences in three categories. They are, *petty offences*, *serious offences* and *heinous offences*. '*Heinous offences*' are those offences for which the minimum punishment under the Indian Penal Code or any other law is imprisonment for 7 years or more. The Act treats all the children below 18 years equally except in the age group of 16 -18 years, who are alleged to have committed '*heinous offences*.'





Section 15 of the Act enumerates special provisions to tackle the child offenders committing '*heinous offences*' in the age group of 16 to 18 years. If a child aged 16-18 years is alleged to have committed '*heinous offence*', the J.J. Board is required to conduct a preliminary assessment to determine, whether he should be transferred to the Children's Court to be tried as an adult or not. While undertaking the job of preliminary assessment, the J.J. Board is mandated to comply with certain steps. Those steps are very necessary so that there may not be any case where a child need not be transferred to the Children's Court, be not transferred. So what are those steps? I would just state few one after the other :

- i. Firstly, it must conclusively determine that the child in conflict with law is above the age of 16 years, but below the age of 18 years on the date of commission of the offence. The determination of age is very crucial for the child as the same has the potential to expose him to the possibility of being transferred to the Children's Court to be tried as an adult. This determination has to be made as per section 94 of the act.
- ii. Secondly, if the JJ Board concludes that the child before it was 16 years or above, but below the age 18 years on the date of commission of the offence, it would be required to conclusively determine whether the offence alleged to have been committed by him is a '*heinous offence*' or not.
- iii. Thirdly, transfer of a child for trial as an adult can only be done after preliminary assessment by the J.J. Board. The word '*shall*' in Section 15(1) indicates that it is mandatory for the Board to conduct '*preliminary assessment*'. The '*preliminary assessment*' must be conducted to assess: -
  - a. Child's mental and physical capacity to commit alleged offence;
  - b. Child's ability to understand consequences of the offence; and
  - c. The circumstances in which the child allegedly committed the offence.
- iv. Fourthly, after the preliminary assessment, the J.J. Board is required to further determine whether it would deal with the case of the child itself or transfer him to the Children's Court.
- v. The aforesaid mandatory requirements are to be carefully conducted while determining whether a child should be transferred to the Children's Court to be tried as an adult or not. The legislature has provided that for the purpose of preliminary assessment, the JJ Board may take assistance of an experienced psychologist or psycho-social worker or other experts. I'm aware of the fact that



there is dearth of psychologists or psychosocial workers but, I'll not say that there is dearth of other experts. In our country, there is lot of talent and talented people can be found in every district and subdivision. If we do not get psychologist, if we do not get psycho-social worker, if we endeavour, we would certainly get some expert dealing with child psychology. The board is required to take assistance of such experts in absence of the first two experts. Further, it needs to be kept in mind that Section 14(3) of the Act obligates that preliminary assessment in case of 'heinous offences' under Section 15 should be completed within three months by the JJ Board from the date of first production of the child before the JJ Board.

If the JJ Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, it shall follow the procedures, as far as may be, for trial in summons case under the Cr.P.C. However, if the JJ Board after conducting the preliminary assessment passes an order stating that there is a need for trial of such a child as an adult, it may order for transfer of the case to the Children's Court having jurisdiction to try such an offence.

Further, Section 18(3) of the Act provides that where the JJ Board, after preliminary assessment under Section 15 of the Act, arrives at the conclusion that there is a need for trial of the child as an adult, it may order, transfer of the trial of the case to the Children's Court having jurisdiction to try such offences.

At this stage, the explanation to section 15 is also to be kept in mind. It provides that preliminary assessment is not a trial but is to assess the capacity of such a child to commit and understand the consequences of the alleged offence. If the preliminary assessments are made casually by the Principal Magistrate and the Members of J.J. Board or without the assistance of trained and experienced, psychologist or psycho-social worker or other experts, such assessment would be counter-productive and would not be in the '*best interest of the child*'. On the contrary, it would be more harmful to children. Unfortunately, I find that almost all the preliminary assessment reports received in my Court are cryptic, uninformative and arbitrary. I have often observed that these reports merely state that the child is mentally and physically fit and has the capacity to understand the consequences of the offence. Such preliminary assessments are meaningless. The Principal Magistrates and the JJB Members should be proactive in asking for psychologist or psycho-social worker or other experts to help them in preliminary assessments for cases pertaining to child in conflict with law. It has already been pointed out that the State must also rise to the occasion and take necessary steps in order to provide panel of psychologists or psychosocial workers or other experts to help the board in making such preliminary assessments for cases pertaining to child in conflict with law. We, in the J.J. Monitoring Committee have continuously impressed upon the Additional Chief





Secretary and Director of the Social Welfare Department to sensitize this government to immediately come into action in order to empanel a list of psychosocial expert, psychologist and other experts, so that the object of the Act can be achieved.

The Juvenile Justice Boards should use the provision emphatically and wisely, to protect children from coming in conflict with law in future. The need is to keep in mind that every child '*in conflict with law*' was once a child '*in need of care and protection*'. A decision taken solely based on inputs to the '*crime*' and the '*criminal*' can have a devastating effect on the life of a child, who otherwise can be a contributing member of the society.

Friends, all of us here have undergone our own journey's which has influenced the decisions that we may have taken, which in turn has defined the course of our lives. While we get acquainted with the offences committed by the child upon his arrival at the Observation Home, we often fail to understand the experiences which led him to commit an act classifying him as a "*child in conflict with law*". The preliminary assessment is a powerful tool to get a holistic understanding of the journey of the child in question and enables us to appreciate the circumstances that led to the commission of the alleged offence. If we understand the journey, we can identify specific interventions to address the issues that caused a given child to get into Observation Home.

There may be several factors that render a particular child vulnerable such as socio-economic status, experiences of violence, school dropout, abuse, neglect, to name a few. Therefore, I urge, the Principal Magistrates and the JJB Members to discharge their duty of preliminary assessment with utmost diligence and sincerity. Once the case of a child is transferred to the Children's Court, a duty is cast upon the Children's Court to further decide the suitability of the child to be tried as an adult.

Section 19 of the Act gives two options to the Children's Court either to try the transferred child as an adult or not to deal with the child as an adult. I am yet to see an order where the Children's Court has decided not to try the transferred child as an adult and has conducted inquiry in case of a child having been transferred to the children's court to the board to be tried as an adult for committing a heinous offence. Now, it is the duty of the children's court when it comes before it, to reassess the preliminary assessment made by the board and to conclude whether to try the child as a child or to try the child as an adult. In case, the Children's Court decides to deal with the child as a child, it must conduct an inquiry as a JJ Board following the procedures for trial of summons





case in accordance with the provisions of Section 18. However, if it decides to try the child as an adult, it shall follow the procedures, as prescribed by the Cr.P.C for the purpose of trial by Sessions Court and pass appropriate orders after trial without prejudice to the provisions of Sections 19 and 21 of the Act considering special '*needs of the child*', the tenets of '*fair trial*' and maintaining a '*child friendly*' atmosphere. A child friendly atmosphere can be created only if the Presiding Officer, Children Court mention their designation as Children's Court. All the officers are mentioning themselves to be Additional District and Sessions Judge cum Special Judge, POCSO Act. No, you are not Additional District and Session judge, you are not a Special Judge, POCSO Act. When you are dealing with a child under the Juvenile Justice Act, you are Children's Court. Therefore you should use your designation as Children's Court and not as Additional District and Sessions Judge. The Children's Court cannot dispense with the requirement of deciding as to whether there is need to try the transferred child as an adult or to deal with the transferred child as the child.

Now leaving apart other things, Section 19 also mandates that the Children's Court shall ensure that the final order with regard to a child in conflict with law, shall include an individual care plan for rehabilitation of child, including follow up by the probation officer or the district child protection unit or a social worker. The Children's Court is also required to ensure that the Child who is found to be in conflict with law is sent to a '*Place of Safety*' till he attains the age of 21 years. Thereafter, the person shall be transferred to a jail.

Section 19(4) of the Act provides that the Children's Court shall ensure that there is periodic follow-up report every year by the probation officer or the District Child Protection Unit or a social worker to evaluate the progress of the child in place of safety and to ensure that there is no ill-treatment to the child in any form.

Section 19(5) of the Act provides that the reports under sub-section (4) shall be forwarded to the Children's Court for record and follow-up, as may be required. On a reading of Section 19 of the Act in isolation, it would appear that the Children's Court may order for long period of stay in each case insisting stay of the child in Place of Safety till he attains the age of 21 years and, thereafter, he shall be transferred to jail. However, if we read Section 19 alongwith Section 20, the impression would be quite different.

Section 20 of the Act provides that when a child in conflict with law attains the age of 21 years and is yet to complete term of his stay, then the Children's Court shall provide for a follow-up by the Probation Officer or the District Child Protection Unit or a Social Worker or by itself. The purpose of follow-up is to evaluate if the child has undergone reformatory changes and if the



child can be a contributing member of the society. Such an evaluation must be based on the progress records of the child under Section 19(4) of the Act along with evaluation. Such evaluation must be made only if the child has attained the age of 21 years but has yet to complete the term of stay.

Section 20 of the Act empowers the Children's Court to release a child from the Place of Safety without being sent to jail on attaining the age of 21 years. Now, at this stage, what would be relevant to be kept in mind is that though '*heinous offences*' include offences for which the minimum punishment under the Indian Penal Code or any other law is imprisonment for 7 years or more, on attaining age of 21 years, the Children's Court may release the child on such condition as it deems fit which includes appointment of a monitoring authority for the remainder of the prescribed term of stay. Thus, the minimum imprisonment of 7 years or more in the definition of '*heinous offences*' is for the purpose of determining as to which matters may be transferred to the Children's Court.

The general interpretation of Sections 15, 18(3), 19 and 20 of the Act is that preliminary assessments are conducted in order to make decisions for trial of 16-18 years old children to the Children's Court and to conduct trial of the child as an adult and to punish him suitably like an adult, but if the said provisions are read together, it would appear that preliminary assessment is not only to make decision regarding the trial, but to make decisions that assist children with rehabilitation, reformation and reintegration. The J.J. Act, 2015 has sufficient provisions to be able to aid a child in conflict with law in a proactive manner so that their problems are alleviated within the J.J. system.

Ladies and Gentlemen, having dealt with Sections 15, 18, 19 and 20 of the Act, I would now like to briefly discuss the appellate provisions of the Act which are enumerated in Section 101.

Section 101 of the Act deals with appellate jurisdiction under the Act. Section 101(1) of the Act provides that subject to the provisions of the Act, any person i.e. the child in conflict with law, the victim and/or the State aggrieved by an order of the J.J. Board may prefer an appeal before the Children's Court within 30 days from the date of such order. Moreover, the Proviso to Section 101(1) of the Act deals with the power to condone the delay caused in filing the appeal. It is important to note that only the Court of Sessions and not the Children's Court, may entertain the appeal even after the expiry of the said period of 30 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. In order to ensure speedy disposal of the application for condonation of delay, the appeal should be decided within a period of 30 days.





Section 101(2) of the Act makes provision for appeal against the order of the JJ Board passed under Section 15 of the Act, after making preliminary assessment into a '*heinous offence*' of a child in conflict with law. It lays down that an appeal against an order of preliminary assessment shall lie before the Court of Sessions. In deciding the appeal against the preliminary assessment findings, the Court of Sessions may take the assistance of experienced psychologists and medical specialists, but these psychologists and medical specialists should not be the same whose assistance was availed of by the JJ Board in making preliminary assessment under the Act.

It is important to note that even if no appeal is filed and a case is transferred for trial to the Children's Court by the J.J. Board, the Children's Court is mandated to make its own inquiry to determine the suitability of the child to stand trial as an adult under Section 19 of the Act.

Section 101(3) of the Act prohibits appeal against an order of acquittal made by the JJ Board except in case of a child alleged to have committed a '*heinous offence*', who has completed or is above the age of 16 years.

Section 101(4) of the Act prohibits filing of second appeal from any order of the Court of Sessions.

Section 101(5) of the Act provides that any person aggrieved by an order of the Children's Court may file an appeal before the High Court.

Recently, while dealing with cases under the Act, I found that, appeals are being entertained on merits in several judgeships by the Sessions Judge against orders refusing bail by JJ Boards. Since the Sessions Court has no jurisdiction to entertain an appeal on merits against an order granting or refusing bail by JJ Boards, the orders passed by Sessions Court on such appeals are '*corum non jndice*', i.e. without authority. Similarly, I have come across several cases where appeals are being filed before the Children's Court and are being entertained by them against the orders of preliminary assessment. Such appeals are maintainable before the Court of Sessions and not before the Children's Court. Therefore, the orders passed by the Children's Court in such appeals are without jurisdiction.

Further, I have come across cases in which Children's Court has remanded the case of transferred child to the Board while hearing appeal or even otherwise. Firstly, an appeal against an order of preliminary assessment is not maintainable before the Children's Court. Secondly, Children's Court has not been conferred with jurisdiction to remand the case of the transferred child





to the Board. If the Children's Court forms an opinion that the transferred child is required to be tried as a child and not as an adult, instead of transferring the child to the Board, it can itself hold inquiry in accordance with the provisions prescribed under the Act for inquiry by the JJ Board.

I apologize for taking so much of your valuable time. However, I end my speech with a hope that we create a more congenial environment for the future of the children, especially those in conflict with law.

***Thank you, stay home and stay safe.***



*A view of live streaming of the Webinar on Juvenile Justice held on 11.07.2020*









On the occasion of the inauguration of the Website of the Juvenile Justice Monitoring Committee, Patna High Court.

<http://patnahighcourt.gov.in/jjs>



## **TAKEAWAYS**

**By: - Sri Saurabh Singh,  
Research Officer,  
Juvenile Justice Secretariat,  
Patna High Court.**

The speakers of the webinar have extensively discussed the concerned topics with their preeminent suggestion for the implementation of the J.J. Act, 2015 in its letter and spirit. However, an epigrammatic compilation of the address and suggestions would help the stakeholders to achieve the mandates of the J.J. Act, 2015. Thus, topic wise quick review is made here.

### **Inaugural Address**

**Speaker: Hon'ble Mr. Justice Sanjay Karol,  
Chief Justice Patna High Court.**

#### **Key Points:**

- The speaker highlighted the data of child population in the State of Bihar as one tenth of India lives in Bihar and as per the 2011 census 30% of the population of Bihar is below 14 and 40% is below 18 years.
- In each child we must instill the respect for law and not the fear of law or of the court. Further, the idea of Constitutionalism and the ideologies which the makers of the Constitution have enshrined in the Constitution must also be instilled in children so as to when they step out in need of the of the nation, they must have the respect and love for the Constitution.
- It is the duty of the State and the society to ensure the bright future of these children.
- At present the challenge it to implement the law in its true letter and spirit which can be only by having an intrusive association and participation of all concerned including the lawyers, the members of the legal fraternity, State legal services authority, and the Juvenile Justice Boards.
- The deprived ones, the marginalized ones, the downtrodden ones and those who are left out must be streamlined.
- When we are dealing with the cases, whether inside the court or outside the court, we must show compassion, we have to show maturity and positivity and we have to deal the matter with point of view of the child and see from their perspective.





## Synchronization of the Concept of De-institutionalization in the Best Interest of the Child and the Right to Bail under the J.J. Act, 2015

Speaker: Hon'ble Mr. Justice Ashutosh Kumar

### Key Points:

- The speaker discussed the '*snooze button syndrome*' in the context of juvenile justice.
- There exists a paradoxical situation. If a child '**in conflict with law**' or a child '**in need of care and protection**' is not institutionalized, there is every likelihood of their being exploited and marginalized. On the other hand, if they are institutionalized, there is no guarantee that they shall not be exploited or that they would be provided fullest opportunity for developing themselves: physically, mentally and sociologically.
- In order to maintain the balance, it was suggested that a '**Robust Gate Keeping Mechanism**' should be the parameter before institutionalizing any child. As a result, the family situation of a child to be investigated and causing placement of a child in the residential facilities only in his or her best interest.
- Discussion on the principle enshrined under section 3 of the J.J. Act, 2015 and the concepts of Deinstitutionalization read with Best Interest of Child and the principles of family responsibility.
- Deliberation on case laws of **Sheela Barse and Ors. Versus Union of India and Ors.**; **Salil Bali Vs. Union of India & Anr.** **Subramanian Swamy and Ors. Vs. Raju through Member, Juvenile Justice Board and Anr.**
- Deliberation on the parameters for grant or refusal of bail under section 12 of the J.J. Act, 2015.
- Change of approach is required while dealing with the provisions of bail under the J.J. Act, 2015 and cannot be equated with the parameters of section 437, 438 and 439 of the Cr.P.C.
- Nature and gravity of allegation cannot be a ground for rejection of bail.
- Reference to the case of **Lalu Kumar vs. State of Bihar** as the compendium of all the concepts of Juvenile Justice Act.
- Deliberation on exceptions for grant of bail under the J.J. Act, 2015. Elaborated the meaning of the term '*defeat the ends of justice*' and the rule of '*ejusdem generis*.'





**Creating A Child Friendly Atmosphere and Protective  
Environment During Inquiry and Trial Under the J.J. Act, 2015:  
Issues and Challenges**

**Speaker: Hon'ble Mr. Justice Rajeev Ranjan Prasad**

**Key Points:**

- It is the duty of the State to treat a child in Child Friendly Atmosphere
- The J.J. Act, 2015 acknowledges that our constitution confers powers and impose duties, under clause (3) of Article 15, clauses (e) and (f) of Article 39, Article 45 and Article 47, on the State to ensure that all the needs of children are met and that their basic human rights are fully protected.
- Principles of '*parens patriae*' has now shifted to the right approach which respects the constitutional and procedural rights of a child in conflict with the law.
- Significant roles of Special Juvenile Police Unit, Probation Officers, Child Welfare Police Officers at the time of apprehension of child.
- Maintaining the child friendly environment at each stage of inquiry and trial.
- Transfer of child to the Children Court to be tried as an adult does not affect the duty of the Children Court to maintain a child friendly environment during trial.
- Use of section 165 of the Indian Evidence Act, 1872 as a powerful tool to main child friendly environment during examination of accused.
- Need to sensitize the police officers dealing with juveniles and direction of the Supreme Court in the case of **Sampurna Behrua and Others Vs. Union of India.**
- Need of psychosocio psychologist. State is duty bound to prepare an expert panel of psycho-socio psychologist.
- Importance of timely appointment of social members in Juvenile Justice Boards.
- Quality of legal aid lawyers needs to be improved.
- Pendency of inquiries before the Boards should be reduced.
- Concern over cryptic social investigation report and the role played by the Probation Officers.



**Navigation of Protective Potentials of the J.J. Act, 2015 Relating to A Child in Conflict with Law Who Has Completed or Is Above 16 Years of Age and Is Alleged to Have Committed Heinous Offence and the Remedy of Appeal therein.**

**Speaker: Hon'ble Mr. Justice Ashwani Kumar Singh**

**Key Points:**

- While undertaking the job of preliminary assessment, the JJ Board is mandated to comply with certain necessary steps.
- Firstly, the conclusive determination of age of juvenile. Secondly, conclusive determination of nature of offence. Thirdly, conducting '*preliminary assessment*' and lastly determination by the Board as to whether it would deal with the case of the child itself or transfer him to the Children's Court.
- For the purpose of preliminary assessment, the JJ Board may take assistance of an experienced psychologist or psycho-social worker or other experts. However, there exist a dearth of psychologist, but the assistance of other experts can be availed of by the Board members for preliminary assessment.
- Preliminary assessment is not a trial but is to assess the capacity of such a child to commit and understand the consequences of the alleged offence.
- JJ Boards should adhere the procedure prescribed under the J.J. Act, 2015 for preliminary assessment. If the preliminary assessments are made casually by the Principal Magistrate and the Members of JJ Board or without the assistance of trained and experienced, psychologist or psycho-social worker or other experts, such assessment would be counter-productive and would not be in the 'best interest of the child'. On the contrary, it would be more harmful to children.
- The Principal Magistrates and the JJB Members should be proactive in asking for psychologist or psycho-social worker or other experts to help them in preliminary assessments for cases pertaining to child in conflict with law.
- State must also rise to the occasion and take necessary steps in order to provide panel of psychologists or psychosocial workers or other experts to help the board in making such preliminary assessments for cases pertaining to child in conflict with law.



- Till date there is no case wherein the Children's Court has decided not to try the transferred child as an adult and has conducted inquiry itself in such case.
- A child friendly atmosphere can be created only if the Presiding Officer, Children Court mention their designation as Children's Court.
- If the provisions under sections 15, 18(3), 19 and 20 of the J.J Act, 2015 are read together, preliminary assessment is not only to make decision regarding the trial, but to make decisions that assist children with rehabilitation, reformation and reintegration.
- Sessions Court has no jurisdiction to entertain an appeal on merits against an order granting or refusing bail by JJ Boards
- Children Courts have no jurisdiction in entertain appeals against the orders of preliminary assessment by the J.J. Boards. Such appeals are maintainable only before the Court of Sessions.
- Lastly, Children's Court has not been conferred with jurisdiction to remand the case of the transferred child to the Board





## **Feedback from Judicial Officers.**



**Feedback of Webinar on Juvenile Justice held on July 11th, 2020**  
**Sri. Chandra Shekhar Jha,**  
**District & Sessions Judge, Gaya.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *Yes, Most beneficial in every respect. It was most illuminating experience as the Hon'ble speakers gave not only brilliant insights into legal intricacies related with the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015 but also suggested very practical and path-breaking solutions citing lots of Case-laws and examples.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *The Webinar both in terms of technical quality and quality of content was perfect. Incorporation of Q & A Sessions coupled with interactive discussion on practical problems and legal complexities being experienced in different Juvenile Courts of Bihar would add up to the usefulness of the programme.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Yes, regular organization of such Webinar at appropriate interval in future would render Yeoman's service in enhancing the understanding of the mandates of Juvenile Justice (Care and Protection of Children) Act, 2015.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *The problems of mentally challenged Child or Child in need of Care and Protection as per section 4 (14) (iv) of the Juvenile Justice (Care & Protection of children) Act, 2015 must be discussed with special emphasis on issues like their right, protection, advancing their case and care taking agencies etc.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - --



## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Manoj Kumar 1,**  
**District & Sessions Judge, Kishanganj.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** -*The Webinar is beneficial for me as it gave me an opportunity to interact with the participants of Kishanganj judgeship and to treat the child either in conflict with law or victim child as assets of the nation and the children in conflict with law should be treated under the ambit of psycho-socio as well as under legal purview. We discuss on the matter of victim children too.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *The content should be short and more effective.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** -*Webinar should be continued periodically either quarterly or half yearly, with interaction session.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *On one occasion an educational certificate of child in conflict with law was produced showing he was less than 18 years at the time of the crime but during the course of inquiry another document was produced by his adversary showing that date of birth of younger brother of that child in conflict with law. So, keeping in mind such situations, process of inquiry should be discussed regarding age determination.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - --





### **Further Suggestion**

*Further, I want to suggest to include topic of victim child including the child in need of care and protection in which provisions should be discussed regarding dealing with matter of victim child, when produced/appeared before any Judicial Magistrate/court to take steps to produce such child before the Child Welfare Committee. In this regard section 31 r/w sections 29 & 30 of chapter V of the Act and rule 17 of the Bihar Juvenile Justice (Care & Protection of Children) Rules 2017 should be focused. Commonly the provisions for forwarding the victim child before the Child Welfare Committees is not applied as this chapter is untouched in such seminars.*

*Section 21 of the Act alongwith section 302 of the I.P.C. should be included in the topic of webinar.*



## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Bateshwar Nath Pandey,**  
**District & Sessions Judge, Samastipur.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *Yes, Various dimensions of J.J. Act were discussed in detail which has enhanced my knowledge and has helped me understand the practical importance of the topic.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *Some queries of the Stakeholder should also be taken up at the Webinar.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Yes, as it will improve our knowledge and understanding regarding the topic.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *1. Topic related to section 15 of JJ Act which relates to assessment of the mental and physical capacity of child to commit heinous offence.*

*2. Inquiry for age assessment by courts at various stages of trial if the plea is not taken by any person accused of an offence at initial stages Section 19 of the J.J. Act.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - --.



## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Ravi Shankar Kumar**

**A.D.J. XIII, Muzaffarpur.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *Yes, our knowledge qua practical application of the provisions of the Juvenile Justice (Care & Protection of Children) Act, 2015 has further been enhanced by attending this Webinar. Through this Webinar, being the ADJ, my concept regarding appeal as contained in section 101 of the said act got further clarity. The District & Sessions Judge cannot hear the appeal on merit but can only hear the appeal with respect to condonation of delay, if the appeal is not preferred within the stipulated time period of 30 days. Besides that in the order or judgement passed by the Children Court, the designation of the court should be written as Children Court only.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *Yes, the quality of the Webinar may be improved in terms of quality of voice. So far quality of contents is concerned, the same not only covered the background and object of the said act but also highlighted the practical & procedural issues in implementation of this Act.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Yes, the Webinar should be continued in future also as it will be of immense help in further enhancement of our knowledge and better understanding of various provisions as contained in the Juvenile Justice (Care & Protection of children) Act, 2015 and its practical applicability during the course of inquiry and trial.*

**4.Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *Though the Webinar organized on 11.07.2020 covered all the relevant and important provisions contained in the said act, however I feel that the topics like applicability of anticipatory bail relating to the Juveniles in conflict*





*with law, determination of age of a person who claims himself before session court as juvenile and importance of Social Investigation Report qua the inquiry/trial of Juveniles in conflict with law may be discussed in the next Webinar in order to further enhance our knowledge on those issues.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - *No, all Hon'ble Speakers and other respective speakers lucidly explained all the relevant provisions with regard to the respective topic they dealt with which not only further enhanced our knowledge of the various provisions contained in the said Act but also made us to understand how and in what manner we should proceed to implement the said act in true sense to achieve the objective of the said act.*



## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Sujeet Kumar Srivastava**

**A.D.J., Samastipur.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *The webinar on Juvenile Justice organised by the Hon'ble Juvenile Justice Monitoring Committee, Patna High Court was very useful and beneficial to me in terms of knowledge, enhancement and practical application of provision of Juvenile Justice (Care & Protection of Children) Act, 2015. In the Webinar all the Hon'ble Judges of Patna High Court, Patna discussed on subject relating to provisions of Juvenile Justice (Care & Protection of Children) Act, 2015, and also discussed each and every topic. It was useful to clear the doubts which I used to face at trial or bail stages as being P.O. of Children Court.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *The quality of the Webinar was good and without hindrance on that day, though it may be improved in the terms of technical quality.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *I will say "YES" as it will improve our knowledge and understanding regarding enquiry or trial.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *On hearing the topics discussed by Hon'ble Judges in webinar. It is apparent that all the relevant and important topics have been already discussed relating to Juvenile Justice (Care & Protection of Children) Act, 2015 and no any topic was left, which were of practical Importance in Inquiry or trial.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - *There is no such point as all the issues discussed in webinar were in accordance of law.*



## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Shiv Kumar**

**A.D.J. - III, Saharsa.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *Yes. The provisions and scheme of the enactment was clearly discussed and explained in bail, procedure in relation to the children in conflict with law and prime responsibility of the family of such children for their rehabilitation.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *Technical quality can be improved by providing high speed Internet connection in each judgeship to ensure hassle free and effective participation.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Yes, such Webinar should be organized from time to time on different topic and procedure which is related J.J. Act.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *1) Age assessment of children in conflict with law by JJB and Children Court and by other court.*

*2) Age assessment of the victim at the time of statement under section 164 Cr. P.C. and by children / POCSO court, when it appears that victim is also a minor.*

*3) Handing over the custody of children in conflict with law.*

*4) Sending a Juvenile for trial as an adult: Procedural and jurisprudential safeguards to be discussed and adopted.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - --





## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Kumud Ranjan**

**Principal Magistrate, J.J.B., Araria**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *It is my humble submission that the Webinar was extremely successful and the Hon'ble speakers have thrown light upon the practical aspects of different provision of the Act, appreciating the concept of the best interest of children, deinstitutionalization, child friendly environment during inquiry and the provisions relating to the juvenile completing the age of 16 years, alleged to have committed heinous offences.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *In my humble opinion the webinar was far above than satisfying in terms of quality of content. There were some moments when due to network or other related issues there were problems. However, it is my humble opinion that Webinar should be all day long and at least one-hour interactive session should be introduced.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *In my humble opinion, such webinar should be continued in future for enhancing the understanding of the different provisions of the Act and more time should be devoted to such webinars.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *In my humble opinion following topics may be included in the Webinar to be held in future:*

*a. Securing the attendance of juvenile if he is not turning up after being granted bail as the special juvenile police unit is not responsible functioning.*

*b. Ways to conduct preliminary assessment effectively in the absence of experienced psychologist or psychosocial worker.*



*c. Transfer of juvenile from one OH to other if such application comes from superintendent of an OH.*

*d. Applicability of section 167(2) Cr.P.C. in case of J.J. Act.*

*e. Protective custody and overnight protective stay.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - *In my humble opinion all the Hon'ble speakers have addressed the issues respectively allotted to them enlightening us and nothing was not in accordance with law.*



## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Muktesh Manohar**

**Principal Magistrate, J.J.B., Buxar**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *Yes, the Webinar was very much beneficial to me. It is my humble submission that the Hon'ble speakers enlightened us about the practical aspects of different provisions of the J.J. Act. 2015. The concept of deinstitutionalization in the best interest of the child, Right to bail under the Act, child friendly atmosphere and protective environment during Inquiry and trial under the Act and the provisions relating to a child in conflict with law who has completed the age of 16 years and is alleged to have committed heinous offence.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *It is my humble opinion that the Webinar was the best webinar ever, successful and fruitful in terms of technical quality and quality of concept both. However, it is my humble suggestion that an interactive session should also be introduced at least for half an hour.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *in my humble opinion, such webinar should be continued in future for enhancing the understanding the mandates of the Act.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *It is my humble suggestion that the following topics may be included in the Webinar to be held in future: -*

- i) Aspects relating to transfer of a CICTL from one CCI to other.*
- ii) Applicability of section 167(2) Cr. P.C. in the cases under J.J. Act.*
- iii) Procedures to secure the attendance of run away CICTL and what to do with pending case records till appearance of CICTL.*





- iv. *Practical aspects to conduct preliminary assessment effectively in a situation when experienced socio-psycho expert is not available.*
- v. *Procedures relating to restoration and rehabilitation of a CICL to a main stream of society.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - *In my humble opinion all the Hon'ble speakers have addressed the issues respectively allotted to them, enlightening us and nothing was not in accordance with law.*



## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Ashwani Kumar**

**Principal Magistrate, J.J.B., Darbhanga.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *Really sir, it was very beneficial for us in the sense that firstly every presiding officer including members must understand that they are going to inquire the matter of a juvenile not to try the adult, and the best interest of the child must always be moved in the centre of gravity in the light of section -3 of J.J. Act, 2015 and must work on rescue model theory and always take responsibility as 'parens patriae' and further the Board us understand the philosophy of J.J. Act, particularly in Bail matter/dispositional matter, and make balance between cause and effect theory and child act should be adjudges on the basis of restorative justice rather retributive justice additionally speaking that they all the Hon'ble Speakers made aware to us that each and every person's heart has a child so needs to be awoken for good cause regarding CICL then the real purpose of the child will be achieved.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *The technical quality was fine. I did not find difficulty to hear/see hon'ble speakers and it was the first-time experience for me and I felt that if the internet service is fine enough or technical support is well equipped with supported techno-experts then every stake holders will be benefitted.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Really sir this kind of webinar should be organized in future on quarterly basis because it gives the wider perspective of the presiding officer to tackle the case in the best interest of child and this is an excellent platform to get matured wisdom/knowledge at one place by the Hon'ble Speakers.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *Dear Sir, It is a matter of great concern that the role of CWPO and SJPU in context of best interest of CCL is required to be addressed and they need*



*law awareness, and the coordination between CWC and JJB in context of CNCP, CCL need to be addressed and difficulty to the accommodate Victim during 164 statement and role of CWC, concept of default bail in case of CCL etc.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - *No, not at all, I found nothing otherwise beyond law and each and every Hon'ble Speaker addressed and clarified the issues within the law with new dimensions.*





## **Feedback from other Stakeholders**



**Feedback of Webinar on Juvenile Justice held on July 11th, 2020**  
**Sri. Vinay Kumar, IPS**  
**Addl. Director General**  
**Criminal investigation Department,**  
**Bihar, Patna.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *The addresses of the Hon'ble Justices regarding the J.J. Act were beneficial to all stakeholders, including police officers. The Hon'ble speakers covered every aspect of the law, like the U.N. Assembly Convention, law with child friendly approach, and establishment of infrastructure for their living, education, skill developments etc. Cooperation among stakeholders were stressed upon. The mode of application of the J.J. Act was also delt upon in detail.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *The technical quality of the webinar was very good. The contents were also very good. The Hon'ble speakers covered the history of the legislation, the mode of its implementation in different areas, and even its philosophical underpinnings. However, due to the lofty ideas expressed and the contents being in English, the receptivity of this extremely relevant information for the cutting-edge level of the police, was low. It would be useful if such future training sessions could be delivered by functionaries at a lower level, be in Hindi, and contain point-wise actionable items, in order that the receptivity of the ideas, and thus their implementation, be higher.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Yes. The webinar was very useful and knowledgeable for stakeholders. In fact, following the path shown by the Hon'ble speakers in the said webinar, the CID and Weaker Sections Division of the Bihar Police Headquarters is organizing seven state-wide webinars in collaboration with*



*the UNICEF, in order to train and sensitize all SHOs, CWPOs of every PS, and all SDPOs of the state towards the provisions contained in the Juvenile Justice (Care & Protection of Children) Act, 2015.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *The post-rescue provisions of the Juvenile Justice (Care & Protection of Children) Act, 2015, which deal with the care and rehabilitation of rescued children are often not paid adequate attention on the ground level. Some instances have come to light in which certain civil members of CWCs and the JJ Boards were not above board, and perhaps played dubious roles involving the trafficking of children. Therefore, provisions should be made to ensure proper vetting by concerned departments, including the Police, to conduct a 360-degree profiling of persons being considered for occupying such posts. The CCIs and Observation Homes should be so designed that the development of the children in conflict with law take place properly. Their educational as well as skill development needs to be done in order that they can work and earn. Another issue that needs highlighting is the misuse of provisions by several adult criminals to claim juvenile status, in league with certain unscrupulous elements in the municipalities, school administration, medical profession, etc. Such persons endanger the health, physical and mental well-being of the juveniles living in Homes, and many a time end up teaching them criminal behavior. This is an aspect that needs more focus, as it has come to light several times during investigation by the Police.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - *All Hon'ble speakers' speeches covered important topics concerned with stakeholders, as per law.*





## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Smt. Neha Nupur**  
**Assistant Director,**  
**District Child Protection Unit,**  
**Darbhanga.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *The Webinar was very beneficial to face the challenges easily in the light of Juvenile Justice Act, 2015. Various resource person gave insight with illustration how to face the challenges according to the Act.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *Content quality was good. But due to low network problem, Sound was not clear properly.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Webinar should be continue. Sound was not clear properly.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *Rehabilitation and mainstreaming of CICL is challenges for us.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - --.



## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Neshar Ahmad**

**Legal -cum-Probation Officer,**

**District Child Protection Unit,**

**Darbhanga.**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *Webinar was extremely beneficial. It provided a great opportunity to understand various aspect of Juvenile Justice Act. Various examples were given by resource persons which gave insight into how to face various challenges cowing in the way.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *Quality of content was really very informative and interesting. However, at some point of time sound was not that much clear may be due to low net connection.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Of course, such webinar should be continued as these are very informative and it provides an opportunity to see the things with various perspective.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *Rehabilitation and mainstreaming in society of juveniles in conflict with law is a big challenge for us. If it is possible to cover this issue, it would be beneficial.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - --.





## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Sri. Ravi Prakash**  
**Legal -cum-Probation Officer,**  
**District Child Protection Unit,**  
**Darbhanga**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *Yes, it was very useful in refreshing knowledge and sensitized about issues. It is highly beneficial to all stakeholders in this extraordinary situation emerging out of the global pandemic and the consequent lockdown, because of the closure of social/official gathering in this type of unprecedented situation the webinar has emerged as the most effective often in terms of knowledge enhancement with regard to practical application of provisions of juvenile justice Act.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *No, there is no need to change anything in the quality of webinar in terms of technical quality or quality of content.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Yes, Webinar must be continued in future. It would be highly beneficial to all stakeholders for practical application and to enhance knowledge and to get valuable information regarding the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *How to get Inquiry for the Social Investigation Report (SIR), Supervision and Follow-up of the society in the lockdown period, role of Child welfare police officer/child welfare officer and rehabilitation of child in conflict with law.*





**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** *-The topic selected by the Hon'ble Monitoring Committee of Juvenile Justice in the Webinar, held on 11.07.2020 was appropriate in accordance of law and highly beneficial to all stakeholders for practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015. They are appropriate in accordance of law relating to the juvenile in conflict with law.*



## Feedback of Webinar on Juvenile Justice held on July 11th, 2020

**Smt. Jubli Ashutosh**  
**Legal-cum-Probation Officer,**  
**District Child Protection Unit,**  
**Vaishali at Hajipur**

**1. Question:** - Whether the webinar was beneficial to you in terms of knowledge enhancement and practical application of the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015? If yes, kindly mention how?

**Feedback:** - *The Webinar was very beneficial to us in term of practical aspects. Hon'ble Mr. Justice Ashutosh Kumar depicted the stories of Carlos Acosta, Malala Yusuf , Charlie Chaplin, Martin Luther and Sri Kailash Satyarthi. Their stories are source of inspiration for us. In field we have to face many challenges. These views improved our knowledge to deal the challenges specially in the field.*

**2. Question:** - Is there any chance of improvement in the quality of webinar in terms of technical quality or quality of contents? Kindly suggest.

**Feedback:** - *it was our first experience but there is need to improve technical quality.*

**3. Question:** - Whether such webinars should be continued in future for enhancing the understanding the mandates of Juvenile Justice (Care & Protection of Children) Act, 2015?

**Feedback:** - *Of course, it should be continued in future. It was a golden opportunity for us to get lessons on concerned issues by great speakers. Certainly, it will improve our skills and enhance the knowledge of the JJ Act and Rule.*

**4. Question:** - Whether you want any specific topic under the Juvenile Justice (Care & Protection of children) Act, 2015 to be discussed in the webinar?

**Feedback:** - *Rehabilitation and mainstreaming in society of child in conflict with law is a big challenge for us. If it is possible to cover this issue it would be beneficial.*

**5. Question:** - Whether according to you any speaker in the webinar, held on 11.07.2020, has addressed the issue which according to you is not in accordance with law? Kindly highlight such points.

**Feedback:** - --



# ***Milestones***





e-inauguration of Child Friendly Court,  
Begusarai held on 10.07.2020





## e-inauguration of Child Friendly Court, West Champaran Bettiah held on 20.07.2020

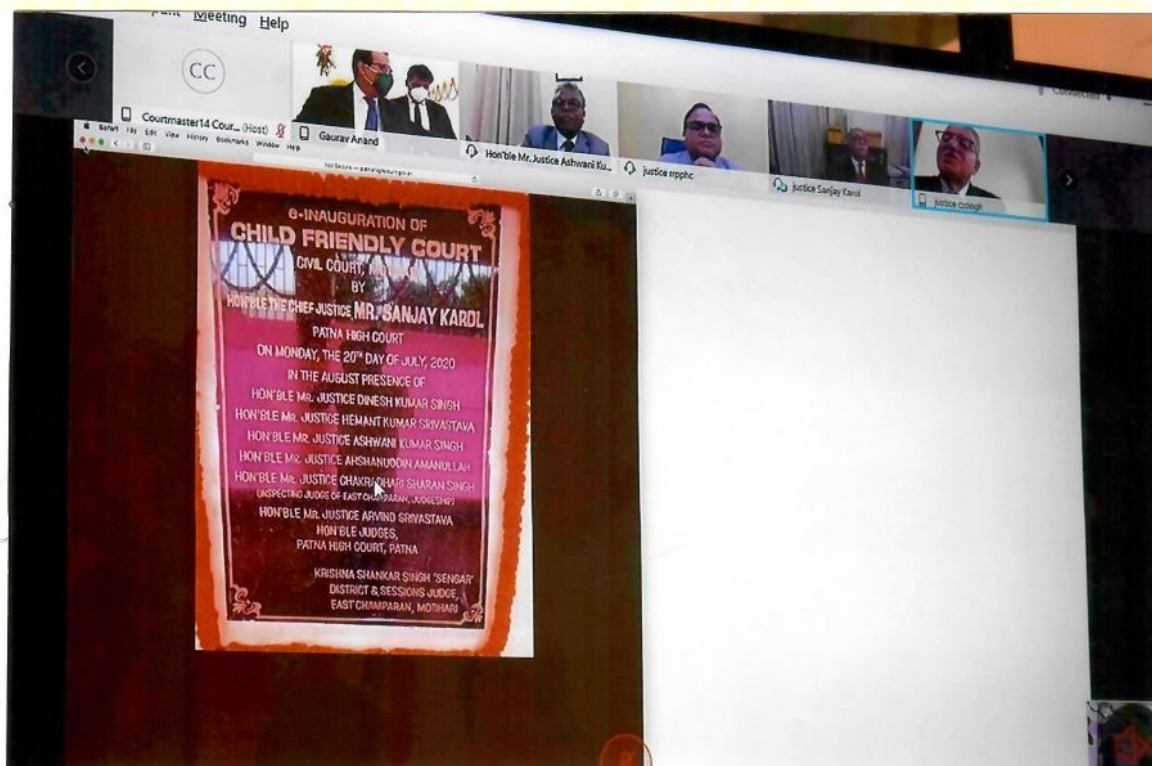








## e-inauguration of Child Friendly Court, East Champaran at Motihari held on 20.07.2020









## e-inauguration of Child Friendly Court, Buxar held on 21.08.2020





e-inauguration of Child Friendly Court,  
Gaya held on 14.09.2020





## e-inauguration of Child Friendly Court, Katihar held on 17.09.2020

