

Press Note on the Amendments of JJ Act, 2015 Serious Objection by WBCPCR

WBCPCR along with Delhi Commission for Protection of Child Rights (DCPCR), Rajasthan Commission for Protection of Child Rights (RCPCR), Punjab Commission for Protection of Child Rights (PCPCR) & Chandigarh Commission for Protection of Child Rights (CCPCR) have serious objections on the recent amendments to the Juvenile Justice (Care and Protection of Children) Act-2015 and demanded the Union government to roll them back for the best interest of children. According to the Amendments the following sections have been made non- cognizable. This in effect means that there will be no FIR in these cases.

Amendments

- a. **Section 75** - Cruelty to child by the CCI staff
- b. **Section 76** - Employment of child for begging
- c. **Section 77** – Giving intoxicating liquor or narcotic drug of psychotropic substance to a child
- d. **Section 78** – Using a child for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug of psychotropic substance
- e. **Section 79** – Exploitation of a child employee
- f. **Section 81** – Sale and procurement of children for any purpose
- g. **Section 83** – Use of children by militant groups or other adults for legal or illegal purposes

Objection:

1. The Section 2(l) of the Criminal Procedure Code (CrPC) defines non-cognizable offence as an offence for which, and “non-cognizable case” means a case in which a police officer has no authority to arrest without warrant. So, it is clear that the Amendments will result in making such serious offences under the Principal Act as non-cognizable and denuding the police of power to investigate and arrest offenders.
2. The rationale being offered for the reclassification of serious offences as non-cognizable is that it shields the children in conflict with law (CCL) from being apprehended without warrant. This is an erroneous and misplaced inference. Children’s protection from arrest does not come from section 86 of the Principal Act but from Rule 8 of the Model Rules notified under the Act.

4. The vast majority of crimes are committed against children staying in vulnerable situations. The amendments will impact children living in vulnerable situations who cannot afford lawyers. Given their social and economic disadvantage, this amounts to gross injustice towards marginal children who need the protection of justice the most.
5. The Amendment Act's provision of reclassifying the cognizability of serious offences runs contrary to India's international obligations. India is a signatory to the United Nations Convention on the Rights of the Child (UNCRC), as well as the Optional Protocols thereto on the sale of children, child prostitution and child pornography and the optional protocol on the involvement of children in armed conflict.
 - a. Article 32 of the UNCRC recognizes the right of the child to be protected from economic exploitation (Child labour).
 - b. Article 33 of the UNCRC obliges States to take appropriate legislative measures against the illicit use of narcotics in children, including their use in production and trafficking of such substances.
 - c. Article 38 requires States to take "all feasible measures" to ensure that children do not take part in any armed conflict or hostilities.
 - d. Article 10 of the Optional Protocol on the Sale of Children states that States Parties shall take all necessary steps to strengthen the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children.
6. The Amendment will further encourage the militant groups and organised criminal gangs to recruit children for pursuing their illegal activities and get away.
7. The 2021 amendments are in defiance of the letter and spirit of JJ (Care & Protection) Act 2015. The reclassification of offences punishable up to 7 years non-cognisable offences is violative of Articles 14 and 15 of the Constitution & appealed to the Centre to not notify the date of enforcement without restoring the cognizability of the offence.

WBCPCR strongly feels that the amendments are directly resulting in an increased harm to the rights of children and dilution of safety standards.