



# CHILD PROTECTION BULLETIN

STATE CHILD  
PROTECTION  
SOCIETY, ASSAM

MONTHLY BULLETIN OF ACTIVITIES CONCERNING CHILD PROTECTION IN ASSAM

## EDITORIAL

The Juvenile Justice (Care & Protection of Children) Act 2015, enacted by Parliament of India, aims at replacing the existing Indian juvenile justice law, i.e. Juvenile Justice (Care & Protection of Children) Act 2000. The Act came into force from 15 January 2016.

The new Act has brought into effect many critical changes to the present juvenile justice laws & procedures. One of the most critical changes made by the new act is that the Act provides for trial of juveniles, who are from the age of 16-18 years to be tried as adults for heinous offences & also any 16-18 year old, who commits a lesser, i.e. serious offences may be tried as an adult if he is apprehended after the age of 21 years.

This particular change in the juvenile justice laws was criticised largely. Experts have pointed out that this bill is in violation of the norms of United Nations Convention on the Rights of the Child since it requires every child under 18 to be treated as equal. Article 14 of the constitution - Right to equality can also be violated in that sense.

Hope this issue of the Child Protection Bulletin will enlighten the readers and the activists to work strenuously for the rights and the betterment of our future generation.

**Editorial Board,**  
State Child Protection Society, Assam

## How will the new Juvenile Justice Act Factor in Children Recruited by Naxals for 'Heinous Crimes'?

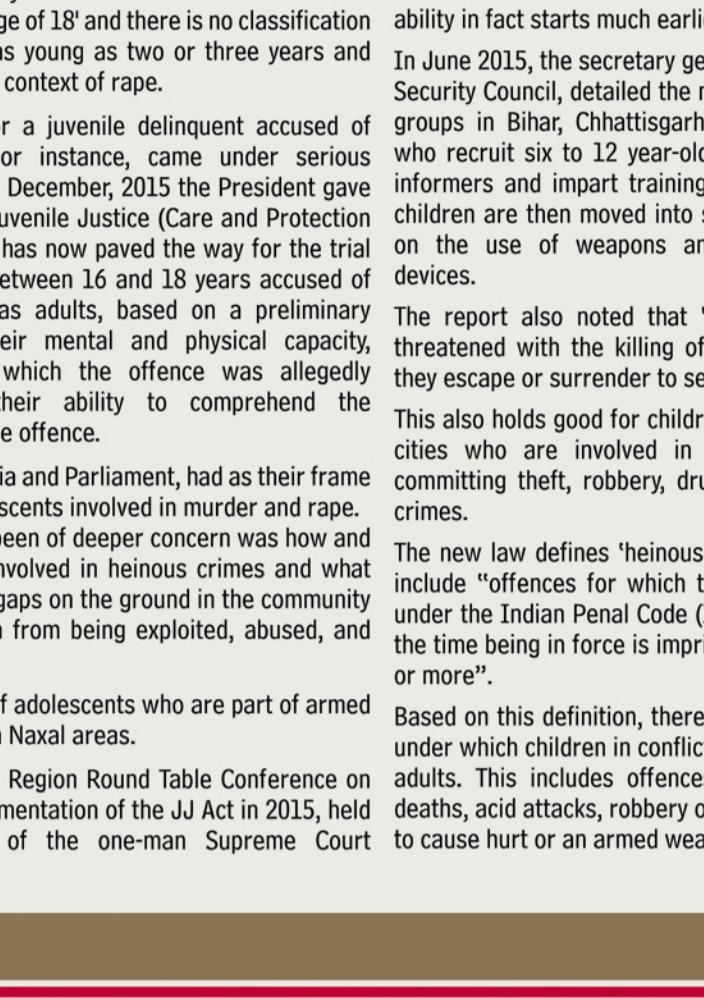
The whole debate about 'who is a child', albeit in a different context, has cropped up again with the Supreme Court on Monday urging the Parliament to consider more "rigorous" punishment for child sex abuse offenders. The issue, as the apex court has observed, is the definition of 'child' under the Indian Penal Code. At present, 'child' is defined in the IPC as 'any person below the age of 18' and there is no classification between children as young as two or three years and other minors in the context of rape.

The cut-off age for a juvenile delinquent accused of heinous crimes, for instance, came under serious debate when on 31 December, 2015 the President gave his assent to the Juvenile Justice (Care and Protection of Children) Bill. It has now paved the way for the trial of some children between 16 and 18 years accused of heinous offences as adults, based on a preliminary assessment of their mental and physical capacity, circumstances in which the offence was allegedly committed and their ability to comprehend the consequences of the offence.

Debates in the media and Parliament, had as their frame of reference, adolescents involved in murder and rape. What should have been of deeper concern was how and why children get involved in heinous crimes and what are the protection gaps on the ground in the community to prevent children from being exploited, abused, and tortured.

Take the example of adolescents who are part of armed groups operating in Naxal areas.

During the Eastern Region Round Table Conference on the Effective Implementation of the JJ Act in 2015, held under the aegis of the one-man Supreme Court



File image of the juvenile convict of the 2012 De. Reuters

committee on juvenile justice, the impact of insurgency on children in Chhattisgarh and Jharkhand came into sharp focus.

What should the state's response be towards such children?

Surely, the armed groups will not stop recruiting children between 16 and 18 years because they can now be tried as adults. The exploitation of their vulnerability in fact starts much earlier.

In June 2015, the secretary general, in his report to the Security Council, detailed the modus operandi of armed groups in Bihar, Chhattisgarh, Jharkhand and Odisha who recruit six to 12-year-old children, train them as informers and impart training of crude weapons. The children are then moved into specific units for training on the use of weapons and improvised explosive devices.

The report also noted that "children are reportedly threatened with the killing of family members should they escape or surrender to security forces".

This also holds good for children in certain parts of our cities who are involved in gangs and forced into committing theft, robbery, drug-trafficking and violent crimes.

The new law defines 'heinous offence' very broadly to include "offences for which the minimum punishment under the Indian Penal Code (IPC) or any other law for the time being in force is imprisonment for seven years or more".

Based on this definition, there are at least 46 offences under which children in conflict with law can be tried as adults. This includes offences like trafficking, dowry deaths, acid attacks, robbery or dacoity with an attempt to cause hurt or an armed weapon under the IPC.

Offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) that criminalise possession, sale, purchase, transport of commercial quantity of certain drugs like poppy straw, opium poppy, cannabis and psychotropic substances also fall under the ambit of this definition.

The use of prohibited arms, membership to an unlawful association, and participation in a terrorist act are also offences for which some youngsters between 16 and 18 years can be tried as adults.

The lawmakers assumed that young persons are autonomous beings capable of making a conscious choice like committing an act of terror, peddling drugs, or committing gang rape. This is fallacious given the slow maturation of the adolescent brain, the incapacity of young persons to extricate themselves from antisocial situations, lack of foresight, and their vulnerability to influence.

The JJ Act, 2015, criminalises the recruitment or use of any child for any purpose by a non-state, self-styled militant group, or any adult or adult group using children for illegal activities. It also criminalises the use of a child for vending, peddling, carrying, supplying or smuggling intoxicating liquor, narcotic drugs or psychotropic substances.

In a study commissioned by the National Commission for Protection of Child Rights and carried out by National Drug Dependence Treatment Centre (NDDTC) and All India Institute of Medical Sciences (AIIMS) on substance abuse among children in India, a majority of the 4,024 interviewed reported having used a variety of substances such as tobacco, alcohol, cannabis and inhalants.

Exposure to drugs takes place within the family, as 60.1 percent of out-of-school children and 51.6 percent of school-going children had a family member using substances.

Reaffirming the peer influence factor, 82.4 percent children shared that they had close contact with friends using substances and 40.6 percent cited peer pressure as a factor that prevented them from quitting. The study also revealed that 18 percent of children living in homes and 29 percent of children on the streets "indulged in sexual behaviour under the

effects of substance; 16.9 percent and 20 percent (respectively) indulged in sexual behaviour in exchange for either substances or money.

Around 38.7 percent of children on the streets and 15.9 percent of children living in homes admitted to having "done something dangerous to earn money or get food, clothes, shelter".

A majority of the children stated that they had not reached out for help (67.7 percent) and a dangerously large number (43.8 percent) felt they did not need any help.

How should the law view children who are trapped by their addiction and commit a heinous offence to feed their habit?

Finally, how should we deal with a 17-year-old boy egged on by adults around him to prove his manhood by raping a woman?

While there is nothing child-like about rape or violence of any kind, assessment of a 'child-like or adult-like mind' in this context is equally absurd. The question really is whether we can impose the same degree of culpability upon adolescents whose brains have not fully developed and who lack the neurological brakes to prevent them from acting on impulse in highly charged situations. The injuries they inflict may be the same but their culpability is not.

By passing the JJ Act, 2015, Parliament has effectively deprived adolescents of the protection they need to tide over a transient and turbulent phase of their lives. Instead of strengthening the accountability elements of the juvenile justice system and intensifying preventive efforts, it has given into the hate wave against juveniles. It prioritises retribution over prevention, counselling, medical treatment, protection and healing.

- Swagata Raha

The writer is a senior legal researcher (consultant) at the Centre for Child and the Law, NLSIU, Bangalore. Legal researchers Aneesa Johnny and Anjali Shivanand also gave their inputs.

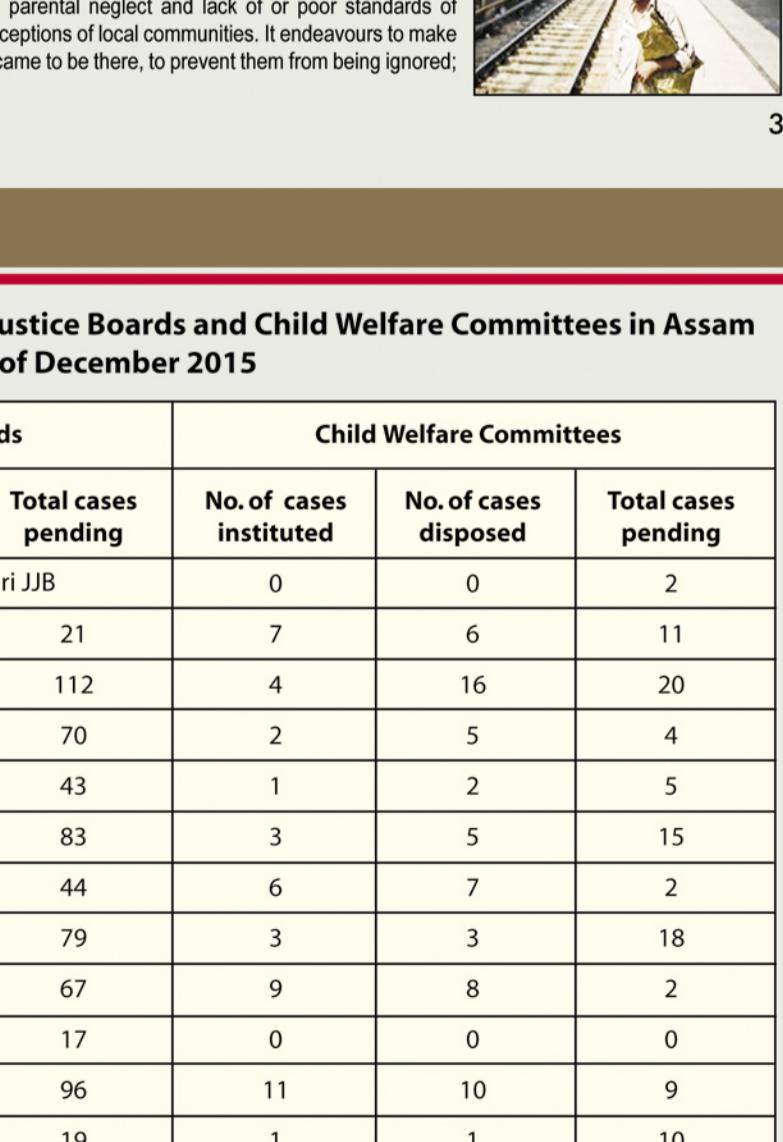
<http://www.firstpost.com/india/how-will-the-new-juvenile-justice-act-factor-in-children-recruited-by-naxals-for-heinous-crimes-2580330.html>

## Launching of "Mukhyamantrir Sunali Saishab Prakalpa - Surakshit Sishu, Surakshit Axom" "State Convergent Plan of Action for Child Welfare in Assam"

The initiative namely "Mukhyamantrir Sunali Saishab Prakalpa- Surakshit Sishu, Surakshit Axom" was formally launched centrally, by hon'ble Chief Minister of Assam on 5th of January 2016 at Guwahati in a function, organized by District Administration, Kamrup (M) in collaboration with UNICEF, Assam.

This initiative is concretely charted down in the form of State Convergent Plan of Action for Child Welfare in Assam, which is notified by Social Welfare Department, Government of Assam on 19th September 2015. This initiative is in continuation of "The Chief Minister's Vision for Women and Children - 2016" launched in 2011 in Assam, which helped to deal with issues pertaining to women and children in a holistic and efficient manner. Goal 11 of "The Chief Minister's Vision for Women and Children - 2016" specifically talks about child labour, the goal is to address child labour through educational mainstreaming.

The State Convergent Plan of Action for Child Welfare in Assam is based on the firm commitment of the Government of Assam to secure children's right to survival, development, protection and participation, through convergent efforts of various Government departments in close collaboration with the Civil Society Organizations (CSOs). The State Action Plan is a



policy framework and a statement of intent which indicates the commitment of the State on the issue of child labour and to provide a roadmap for their social protection. It defines the roles of various departments and key stakeholders including Trade Union and Employer Organizations, the Assam State Commission for Protection of Child Rights, UN agencies; NGO and Civil Society partners and the Media in eliminating child labour. It is a guiding tool for the key stakeholders whose involvement is critical to attaining the goal. It also delineates the institutional underpinning at the State, District and Block level which will support the work towards achievement of the objective

The main vision of the State Convergent Plan of Action is to make Assam Child Labour free state by 2021 & the basic objectives that that this Action Plan wants to achieve are - ■ To prevent children from being engaged in any activity that impedes the growth and development of the child. ■ To track, detect and identify children engaged in various occupations and processes; ■ To rescue the children from exploitative situations ■ To ensure quality post- rescue care and protection services to children. ■ To ensure justice to children through timely prosecution and convictions. 6. To ensure timely and appropriate social reintegration of the child ■ To prevent re- entry into child labour through social protection and rehabilitation mechanisms ■ To establish a MIS mechanism to ensure effective implementation of the State Convergent PoA on child labour.

Source: MIS Cell, SCPS, Assam

## RESCUE OF A MINOR ADIVASI GIRL

A minor Adivasi girl from Udaguri, who was trafficked and sold three times by different traffickers in Delhi during the last three years, was brought to Guwahati after being rescued and produced before the Child Welfare Committee in New Delhi. Police, in association with the child rights organisation Bachpan Bachao Andolan (BBA) has rescued eight minors in the past one week from various locations in Delhi. A team of the Assam Police's anti-trafficking unit, led by Sub-Inspector R Bora, which was camping in New Delhi, also arrested one of the traffickers – Sanju Dais – who also hails from Udaguri and was operating on behalf of the Sree Sat placement agency. According to Bachpan Bachao Andolan that took active part in the rescue operation in the wee hours of Saturday, the girl was tortured by her employers and was poorly paid. "The victim was trafficked three years back and was sold to different persons, including an Assamese family, by three traffickers," Rakesh Senger of BBA said. Senger said that as an FIR has been lodged with the Udaguri police, all the accused, including the employers of the victim, would have to appear in the local court at Udaguri. "This is a case in which the best way of approaching the police was adopted. Since the poor family had lodged a complaint with the local police first, the accused will now have to appear before the local court, unlike the cases in which victims had to go to Delhi to appear before the court," Senger said. Police sources, meanwhile, said the accused, including the employers based in Delhi, are booked under various Sections of the IPC, besides the Child Labour Act and the Juvenile Justice.

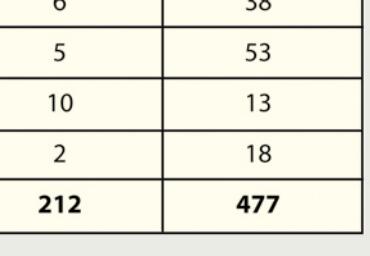
## RAILWAY CHILDREN INDIA

Railway Children (RC) is an international non-profit organization, working since 1995 in U.K., India and East Africa. Moto of Railway Children is to create world where no child ever has to live on streets.

Railway Children's work strives for sustainable changes in the lives of children alone and at risk on the streets. Commonly referred to as "street children", they decide or are forced to leave home because of reasons such as abuse, violence, neglect and poverty. While living on the street they are exposed to all forms of vulnerabilities and even death.

In 2013 Railway Children India was established to engage with local funding organizations thereby scaling and sustaining the impact of our work. Globally Railway Children has 57 employees across the world.

Railway Children meet the immediate needs of children at and around railway stations. It provides children food, shelter, safety and support while reuniting children with families. As children decide to leave their families because of several push factors like abuse, parental neglect and lack of or poor standards of educational opportunities; it works through source level intervention, to change the perceptions of local communities. It endeavours to make children on the streets visible to their communities and aid understanding of how they came to be there, to prevent them from being ignored; condemned or passed by.



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## Status Report on the functioning of the Juvenile Justice Boards and Child Welfare Committees in Assam for the month of December 2015

Sl. No.	Districts	Juvenile Justice Boards			Child Welfare Committees		
		No. of cases instituted	No. of cases disposed	Total cases pending	No. of cases instituted	No. of cases disposed	Total cases pending
1	BAKSA	Cases are jointly dealt with Nalbari JJB		0	0	2	
2	BONGAIGAON	7	9	21	7	6	11
3	BARPETA	5	10	112	4	16	20
4	CACHAR	7	5	70	2	5	4
5	CHIRANG	3	10	43	1	2	5
6	DARRANG	8	5	83	3	5	15
7	DHEMAJI	0	9	44	6	7	2
8	DHUBRI	10	11	79	3	3	18
9	DIBRUGARH	1	2	67	9	8	2
10	DIMA HASAO	1	0	17	0	0	0
11	GOALPARA	3	10	96	11	10	9
12	GOLAGHAT	0	5	19	1	1	10
13	HAILAKANDI	0	1	39	2	3	5
14	JORHAT	0	2	55	5	2	7
15	KAMRUP (M)	1	7	71	95	78	90
16	KAMRUP (R)	4	7	52	4	3	23
17	KARBI ANGLONG	1	0	39	1	1	2
18	KARIMGANJ	0	5	50	0	1	29
19	KOKRAJHAR	13	8	139	2	4	8
20	LAKHIMPUR	0	2	0	7	8	13
21	MORIGAON	2	2	8	3	2	17
22	NAGAON	9	15	239	17	24	27
23	NALBARI	9	15	36	1	0	36
24	SONITPUR	3	3	125	8	6	38
25	SIBSAGAR	3	4	46	10	5	53
26	TINSUKIA	2	18	41	7	10	13
27	UDALGURI	2	1	16	5	2	18
<b>Total</b>		<b>94</b>	<b>166</b>	<b>1607</b>	<b>214</b>	<b>212</b>	<b>477</b>

Source: MIS Cell, SCPS, Assam

For any feedback, write to :

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