PREFACE

The Juvenile Justice System in India entered into the 21st Century with a reincarnation as the first uniform legislation on the subject had been repealed and in its place an amended enactment in the nomenclature of Juvenile Justice (Care and Protection of Children) Act 2000 came into place in the year 2000. The brief history of the first uniform central legislation which stretched over 15 years period between 1986 to 2000 had been largely marked by most ineffective law which could not bring about its desired results in accordance with its objective statement. It was mainly criticised on the ground that it was riddled with confusion and it could not find adequate expression at the operational level. The arrival of a substituted enactment brought a ray of hope among cross section of the society who believed a special protection in the period of childhood in the life of a person. However, within a short span of time after enforcement of the new Act, it is noticed that there is virtually no changes made in the situation of juvenile and children due to inadequate effort by the State for its enforcement. A sojourn over two decades of juvenile justice system in India leaves an impression that in spite of legislative arrangement, reform in the administrative sphere restricted the much debated legislation to statue books merely.

In this context the present research has been undertaken to explore the reality about the application of Juvenile Justice System and its consequential impact to shape the future of children. Perhaps this research is the first of its kind after the enactment of the Juvenile Justice (Care and Protection of Children)
Act, 2000. There had been some engagement into the impact of the predecessor Act in India by both social scientist and legal researcher as we notice from different literature. However, the existing studies on the present statute are limited to the realm of law in the statute book. The present research is an attempt to fill the void. The most significant aspect of this research is its deep engagement into the practical application of law at the operational level.

In this research I made an attempt to make it unique by delving deeply into the practice of juvenile justice system at the delivery point and also tried to extensively explore the structural and functional aspect of law in ground reality. Hopefully, it is going to contribute to the socio-legal scholarships from the perspective of practical application of law in India for children and juvenile.

Besides in this research an attempt has been made to locate juvenile justice system within the broader framework of rights of the child as envisaged under the present international instruments viz. the United Nations Convention on the Rights of the Child. This research also grounded on the international instruments concerning juvenile justice initiated at the behest of United Nations. The ideal of juvenile justice system as available in India is also contextually examined to ascertain the respective position of the subject or beneficiary of this lofty legislation. Besides in order to provide a context for discussion of the Juvenile Justice Act 2000, this thesis presents a brief review of the history of juvenile justice system in India under various laws and how it
evolved into the present legal framework. The thesis then discusses the principles and major provisions of the Act with its normative structure.

The major theoretical perspectives are discussed in the first and second chapter which is finally examined critically in the final chapter in detail. Much of the materials in the main body of the thesis are structured in terms of these perspectives. The emphasis on the theory is balanced by detailed consideration of the findings of a non-doctrinal field study. The methodology used in this research is discussed in the Introduction chapter as well as in the chapter containing the field study giving therein the methods used to obtain information and of the general assumptions which underline the research. Finally, it attempts to strike a balance between theory and research findings.

In this research thesis there are seven chapters. In the first chapter a brief introduction to the subject has been given followed by a review of literature and discourses. In chapter two and three basic understanding of rights of child and juvenile justice has been lamented. In chapter four I have made a journey through the history of legal measures in both colonial and post-colonial India with occasional references to other countries. While chapter fifth exclusively deals with the existing legal provision for juvenile in India, chapter six is completely devoted to excavate the field realities in course of application of law. It is the major focus of this research. In chapter seven and eight I have tried to unravel the operational issues at the macro context within the sphere of policy making, execution and monitoring.
This research thesis is the outcome of my extensive involvement in child right activism in Orissa over 15 years working with Committee for Legal Aid to Poor (CLAP) as its Executive President. The experience as a Lawyer and Activist has an added advantage in conceptualising and presenting the thesis. I consider it a great privilege that the Centre for Study of Law and Governance at Jawaharlal Nehru University had provided me an academic opportunity to theorise my practices in the field. The thesis could finally see the light of the day with the consistent guidance of my Supervisor Prof. Dr. Amita Singh.

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