
ADMINISTERING JUVENILE JUSTICE AND THE NEW TECHNOLOGIES THROUGH THE SUPREME COURT'S DECISION IN SAMPURNA BEHURA V. UNION OF INDIA

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ABSTRACT

Will adoption of new information technologies bring reforms in the Juvenile Justice System in India? Or will the actual assessment lie in the adoptability of technologies and its impact in practice? Traditionally, the justice delivery system in India has been lagged behind in implementing new technologies for improving its operations. On the other side, artificial intelligence and its use in many aspects of our lives has become a reality which is having very deep impact on our day to day lives. The advancement in technologies is continuing. New technologies are being used in trial and decision making in the justice delivery system of all over the world. To make Juvenile Justice system more productive and efficient, to increase quality and transparency, and to serve the best interests of the children, the Supreme Court of India in *Sampurna Behura v. Union of India* has recognized the need of transformative shifts concerning the adaptations and use of information technology in the working of the juvenile justice system in India. the present research work is only to provide an outlook on the possible use of information technology in the dispensation of justice to the child in need of care and protection and child in conflict with law under the present juvenile justice system in India. Many technologies discussed in the present work may offer significant benefits in terms of crime reduction and just, equitable and effective implementation of the juvenile justice system in India.

Keywords: New Technologies, Juvenile Justice Agencies, Adaptations, Implementations, digital

Setting the stage:

Traditionally, the justice delivery system in India has been lagged behind in implementing new technologies for improving its operations. On the other side, artificial intelligence and its use in many aspects of our lives has become a reality which is having very deep impact on our day to day lives. The advancement in technologies is continuing. New technologies are being used in trial and decision making in the justice delivery system of all over the world. Besides information technologies, the molecular biology (sometimes called 'New Biology') and social science research are also supplementing and complementing each other in modern times.

To make Juvenile Justice system more productive and efficient, to increase quality and transparency, and to serve the best interests of the children, the Supreme Court of India in *Sampurna Behura v. Union of India*¹ has recognized the need of transformative shifts concerning the adaptations and use of information technology in the working of the juvenile justice system in India. The adaptations and uses of the ICT require that the agencies working under the juvenile justice system shall make technology as their steadfast ally in the journey of justice delivery to the child in conflict with law and child in need of care and protection.

The present case was come up before the Supreme Court by way of a PIL against the 'virtual non-implementation or tardy implementation' of laws beneficial to children by States in India. The case addresses so many questions relating to the human rights, right to access to justice by voiceless children, right to constitutional remedies, constitutional or statutory obligations of State, unaddressed laying of the fundamental rights before the Government, etc.² In this case, The Court and the parties have given their constructive efforts so that the above said matters could be addressed for the benefits of the Children. The Court has put strong emphasis over the equal enforcement of the human rights and fundamental rights of the children underlying in social justice laws as enacted by the Parliament.³ In this case, the Supreme Court has mentioned the need for improvement in the conditions of Shelter homes/Remand and Observation homes, Juvenile homes, Rescue centers with up-to date facilities as per the standards, Rules, Policies and Guidelines in all such Homes/Centres. Various other issues of Socio-legal relevance were discussed, but it is not necessary to mention all as the present

¹ [2018] 2 SCR 940.

² *Id* at Para 1.

³ *Id* at Para 2& 3

research work is only to provide an outlook on the possible use of information technology in the dispensation of justice to the child in need of care and protection and child in conflict with law under the present juvenile justice system in India. Many technologies discussed in the present work may offer significant benefits in terms of crime reduction and just, equitable and effective implementation of the juvenile justice system in India.

Role of information technology in Juvenile Justice:

Modern IT innovations have provided so many technologies which may be used for effective functioning and law enforcement by the Juvenile Justice Boards, Child Welfare Committees and other agencies working under the child centric justice system. In recent times, the technological innovations have made it possible to enhance the effective working of the whole child centric justice system, if they are adopted and used by the enforcement agencies as pointed out by the Supreme Court in *Sampurna Behura v. Union of India*⁴ which is worth mentioning:

The use of technology, both by the JJBs as well as by the CWCs is extremely important....Technology is important not only for the effective functioning of the JJBs and CWCs, but also to deal with issues that would arise from time to time concerning the tracing and tracking of missing children, the rescue of children working in hazardous industries, trafficked children, children who leave the Child Care Institutions, victims of child sexual abuse and follow-up action, among several other requirements.”

The Juvenile Justice (Care and Protection of Children) Act, 2015 (herein after JJ Act, 2015) as amended from time-to-time sets standards to be adhered to while dealing with the protection, care, treatment and rehabilitation of the children alleged and found to be in conflict with law and children in need of care and protection. The law enforcement agencies working under the JJ Act, 2015 can use advanced technology in the best interest of the children. Technology is very vital in the matter of correction, protection and rehabilitation of the children. As technology advances, the system will be more reliant with the cutting-edge tools and techniques which can be more helpful towards serving the goals of juvenile justice system in India. In this context, it is be useful to mention the data of the Ministry of Women and Child Development,

⁴ [2018] 2 SCR 940, See Para 79

Government of India as mentioned in its Annual Report 2022-23 which states about the Tracking of children with the help of online data as follows: “Up till 31st December 2022, in all 12,767 Police Stations are making entries of missing/ recovered children in the Track Child Portal and 5,272 number of Child Care Institutions are entering details of children. Since its inception, 3,77,177 children have been matched through the system. 12,767 Police stations have entered the information of 5,24,130 missing children and 4,15,925 recovered children.”

Juvenile Justice (Care and Protection of Children) Act, 2015 and possible use of information technology:

With the modest technological applications, the objectives of the JJ Act, 2015 can be effectively achieved. The Government of India is on mission to use technology in the justice sector.⁵ The Ministry of Women and Child Development (MWCD) has taken initiative for bringing out online monitoring system at central level with the cooperation of States to effectuate and better management of the issues relating to the children in India. In the Juvenile Justice horizon, the use of technology in the different issues such as e-court system, e-application system for legal aid, e-tracking system for children in need of care and protection and for the child in conflict with law, e-child care institutions system, e-link of the all administrative, adjudicatory and other functionaries for exchange and transfer of data relating to the affairs of the Juvenile justice system, etc is more fruitful in the present digital India in making the whole system more effective.⁶

The e-data relating to the Constitution, establishment and maintenance of institutions under this Act, notification of competent authorities in relation to the children and their rehabilitation and co-ordination with various official and non-official agencies concerned, information relating to utilization and availability of the Fund and e-data relating to welfare and rehabilitative measures adopted by the Government through the administrative structure, agencies and mechanism under the JJ Act, 2015⁷ may provide an effective, transparency in working and more productivity in the implementation of the laws by the Government for which

⁵ See, Madurima Dhanuka, “Is Technology a saviour for our Criminal Justice System”, vol. 65, no. 2, *Indian Police Journal* 78-88 (2018).

⁶ See, <https://trackthemissingchild.gov.in/trackchild> (Last Visted on 05-02-2024): Track Child portal has been functional since 2012.

⁷ Section 106 provides for the constitution of State Child Protection Society in each state and District Child protection Unit in each district. Under Section 105, Juvenile Justice Fund is required to be created to find to the fund such voluntary donations, contributions or subscriptions by individual. For more, , Section 106 and 105 of the JJ Act, 2015

the JJ Act, 2015 mandated. Adjudicatory Bodies⁸ such as Juvenile Justice Boards and Child Welfare Committees as per the mandate of Juvenile Justice laws may adopt and use the IT tools to enhance their delivery of time-bound child centric services by developing and installing the decision support system, and by enabling access to the automated seeded data to the citizens and various agencies so that the envisioned goals of Juvenile justice system in India may be affordable and transparent.

Accessing entailed data can be vital in the process to secure juvenile justice. It can empower the common men in the involvement into the system in comparison with the previous system involvement. Following the afore-said, Law Enforcement bodies⁹ under JJ Act, 2015 such as Special Juvenile Police Unit and Child Welfare Police Officers can entail the digitalisation of data relating to inquiry and investigation in the interest of the Justice to be disclosed only as per the mandates of law.

Child Care Institutions under the JJ Act, 2015¹⁰ can digitalise the information relating to the children in in conflict with law receipt for care and rehabilitation, and also for care, treatment, education, training, development and rehabilitation of the child in need of care and protection. Through this e-portal of these child care institutions, 'rehabilitation, restoration and release'¹¹ of children can be repositied and this data can only be released following the mandates of law in this regard. This will provide on time information to the officials and various stakeholders of the Juvenile Justice system. It can facilitate the online submission of visit requests, provide statistical data regarding the child in conflict with law and child in need of care and protection across the country. The Alternative care measures under the JJ Act, 2015 such as adoption and the information of fit Person, after care and foster care can also be uploaded on the e-portal. For making legal aid services a reality, NALSA has taken a number of initiatives to improve the access of justice in past years. It has computerised the offices of the legal services authorities with digital legal service management system for providing legal aid advice to

⁸ Juvenile Justice Board (Section 2 (10) & 4 and Rules 3 & 4), Child Welfare Committees (Section 2 (22) & 27 and Rules 15)

⁹ Special Juvenile Police Unit (Section 2 (10) and 74 and rules 86) and Child Welfare Police Officers (Section 2 (18) & 107 and rules 107 (1) and rules 86)

¹⁰ Observation homes (Section 2 (40) & 47 and rules 29 (1) (i)), Special Homes (Section 2 (56) & 48 and rules 29 (1) (ii)), Place of Safety (Section 2 (46) & 49 and rules 29 (1) (iii)), Children's Homes (Section 2 (19) & 50 and rules 29 (1) (iv)), Open Shelters (Section 2 (41) & 43 and rules 22), Fit Facility (Section 2 (27) & 51 and rules 27)

¹¹ Rehabilitation, restoration and release: (Section 53 (1) (x) and rules 2, 69, 39, 82.

needy persons. Therefore, wherever need arises¹², the legal aid and other facilities for children may be sought through an online application to the legal services authorities. Other activities such as skill training to the child in need of care and protection, educational services, video conferencing whenever required, management of state and district level data and other development activities can be undertaken in the best interest of the children with the help of information communication technology.

Conclusion:

Adaptations and use of information technology in the administration of juvenile justice, as said by the Supreme Court in *Sampurna Behura v. Union of India*, can maximise the functioning of the system. Data relating to more complex information relating to child in need of care and protection and child in conflict with law can easily be generated and utilised to improve the functioning of the juvenile justice system. Although the integration, monitoring, upgradation, and infrastructure aspects of the above discussed scope and use of information technology and data generating is challenging, but once it is achieved, it can provide benefit to the public as well as the system by boosting confidence, communication, accessibility. The use of technology can increase community participation and build positive relationships in many settings. To sum up the words of the Supreme Court merits mention, “It is well-known that our country is a technological power-house and if we are unable to take advantage of the resources available with us and fully utilize the benefits of technology through computers and the internet for the benefit of children, our status as a technological power-house would be in jeopardy and would remain only on paper.”

¹² See, Section 53 (viii), 8 (c) and 37 (g) of the JJ Act, 2015