



**PARLIAMENT OF INDIA**  
**RAJYA SABHA**

**235**

**DEPARTMENT - RELATED PARLIAMENTARY STANDING  
COMMITTEE ON HUMAN RESOURCE DEVELOPMENT**

**TWO HUNDRED THIRTY-FIFTH REPORT**

**ON**

**THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)  
AMENDMENT BILL, 2010**

**(PRESENTED TO THE RAJYA SABHA ON 25<sup>TH</sup> FEBRUARY, 2011)  
(LAID ON THE TABLE OF LOK SABHA ON 25<sup>TH</sup> FEBRUARY, 2011)**

**RAJYA SABHA SECRETARIAT  
NEW DELHI**

**FEBRUARY, 2011/PHALGUNA, 1932 (SAKA)**



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**COMPOSITION OF THE COMMITTEE ON HRD  
(2010-11)**

**RAJYA SABHA**

1. Shri Oscar Fernandes — *Chairman*
2. Shrimati Mohsina Kidwai
3. Dr. K. Keshava Rao
4. Shri Prakash Javadekar
5. Shri M. Rama Jois
6. Shri Pramod Kureel
7. Shri N.K. Singh
8. Shrimati Kanimozhi
9. Dr. Janardhan Waghmare
10. Shri N. Balaganga

**LOK SABHA**

11. Shri Kirti Azad
12. Shri P.K. Biju
13. Shri Jeetendra Singh Bundela
14. Shri Angadi Suresh Chanabasappa
15. Shrimati J. Helen Davidson
16. Shri P.C. Gaddigoudar
17. Shri Rahul Gandhi
18. Shri Deepender Singh Hooda
19. Shri Prataprao Ganpatrao Jadhao
20. Shri Suresh Kalmadi
21. Shri P. Kumar
22. Shri Prasanta Kumar Majumdar
23. Capt. Jai Narain Prasad Nishad
24. Shri Sheesh Ram Ola
25. Shri Tapas Paul
26. Shri Brijbhushan Sharan Singh
27. Shri Ashok Tanwar
28. Shri Joseph Toppo
29. Dr. Vinay Kumar Pandey 'Vinnu'
30. Shri P. Viswanathan
31. Shri Madhu Goud Yaskhi

**SECRETARIAT**

Shrimati Vandana Garg, Additional Secretary  
Shri N.S. Walia, Director  
Shri Arun Sharma, Joint Director  
Shri Sanjay Singh, Assistant Director  
Shrimati Himanshi Arya, Committee Officer  
Shrimati Harshita Shankar, Committee Officer

## PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Human Resource Development, having been authorized by the Committee, present this Two Hundred and Thirty-fifth Report of the Committee on the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010\*.

2. The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010 was introduced in the Rajya Sabha on 16 November, 2010. In pursuance of Rule 270 relating to Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha referred \*\* the Bill to the Committee on 1 December, 2010 for examination and report within two months.

3. The Committee considered the Bill in two sittings held on 31 January 2011 and 22 February, 2011.

4. On 31 January, 2011, the Committee heard the Secretary, Ministry of Women and Child Development on various provisions of the Bill.

5. The Committee, while drafting the Report, relied on the following:-

- (i) The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010;
- (ii) The Juvenile Justice (Care and Protection of Children) Act, 2000;
- (iii) Background Note on the bill;
- (iv) Detailed clause by clause note on various provisions of the Bill;
- (v) Mental Health Act, 1987;
- (vi) Copy of the Delhi High Court Judgement (writ petition (civil) No. 8112/2007);
- (vii) Report of the Rajya Sabha Committee on Petitions for Integration and Empowerment of Leprosy Affected Persons; and
- (viii) Summary of consultations.

6. The Committee considered the Draft Report on the Bill and adopted the same in its meeting held on 22nd February, 2011.

7. For facility of reference, observations and recommendations of the Committee have been printed in bold letters at the end of the Report.

NEW DELHI;  
February 22, 2011  
Phalgun 4, 1932 (Saka)

**OSCAR FERNANDES**  
*Chairman,*  
*Department-related Parliamentary*  
*Standing Committee on Human Resource Development.*

## REPORT

### I. INTRODUCTION

1.1 The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010 was introduced in the Rajya Sabha on 16 November, 2010 and referred to the Department-related Parliamentary Standing Committee on Human Resource Development on 1 December, 2010 for examination and report thereon.

1.2 The Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted to provide a juvenile justice system for juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto. This Act was amended in 2006 to make it more effective by providing time-lines for setting up of Juvenile Justice Boards and Child Welfare Committees which are very basic institutions for management and governance under the Act and compulsory registration of Homes. The scope of the Act was also widened to include working children, children living on the streets or those found begging.

1.3 The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010 seeks to amend the Juvenile Justice (Care and Protection of Children) Act, 2000 with a view to remove discriminatory provisions in the said Act against children so as to ensure that a juvenile/child suffering from leprosy or sexually transmitted diseases or Hepatitis B or Tuberculosis or is of unsound mind enjoys equal status as other children.

1.4 The Secretary, Ministry of Women & Child Development during his presentation before the Committee stated that his Ministry received a reference for amendment of Section 48 regarding committal to approved place of juvenile or child suffering from dangerous diseases and his future disposal of the Juvenile Justice Act from the Ministry of Health and Family Welfare in October, 2008. This reference followed the first order given by the Hon'ble High Court of Delhi in a case filed by Kushtha Asha Deep Federation vs. the Union of India. The Secretary explained that at that point of time, the Ministry was of the view that this provision did not classify leprosy as a communicable and inherently risky disease. The intention of the provision was rather to ensure proper treatment of the disease and, therefore, segregation was not envisaged under the provisions of the Act. This interpretation of the Ministry was accepted by the Ministry of Law and Justice and, accordingly, no change was considered to be made at that point of time. Later in December 2008, the Ministry received another reference following the recommendations made by the Rajya Sabha Committee on Petitions for integration and empowerment of leprosy affected persons in its 131st Report. The Committee observed that the discriminatory provisions in the statutes have hampered the empowerment of this marginalized section of the society. The Committee recommended that discriminatory references against leprosy affected persons from all the Acts should be removed including the Juvenile Justice Act to ensure integration of such persons in the mainstream. This recommendation was further reinforced by the order of the Hon'ble High Court of Delhi in February 2009 that immediate steps for removal/amendment of discriminatory provisions against persons affected by leprosy from all legislations and for ensuring that such patients/persons enjoy equal status with other citizens. Tracing the process of amendments, the Secretary informed the Committee that the matter remained under consideration of the Ministry in consultation with the Ministries of Health and Family Welfare and Law and Justice. During this exercise, the scope of the amendment was enlarged to include, besides leprosy affected children, children affected by other diseases like Tuberculosis, Hepatitis B, Sexually transmitted diseases, mental disorder etc. The Cabinet Note was circulated in June, 2010 and with all the points resolved, the approval was received in August 2010.

1.5 On a specific query of the Committee regarding the status of implementation of the Juvenile Justice Act, 2000 so far, the Secretary admitted that the implementation of the Act had not been on the desired lines. He further informed that the Supreme Court in February, 2010, gave an order to the States to set up Juvenile Justice Boards and Child Welfare Committees as these were the principal institutions mandated to administer the Act. However, the States had not been very forth coming in setting up these institutions mainly due to resource crunch. In order to facilitate the setting up of these institutions, the Ministry started a

new composite scheme 'Integrated Child Protection Scheme' in 2009-10. Since then Juvenile Justice Boards and Child Welfare Committees have been set up in 511 and 493 districts respectively. The Secretary assured that the Integrated Child protection Scheme when implemented as envisaged would facilitate the implementation of the Act.

1.6 The Committee was informed that under the Integrated Child Protection Scheme, 1396 Juvenile Homes in the country have been assisted. However, state-wise break-up of such Homes indicates that maximum concentration is in Maharashtra (738) and Andhra Pradesh (102). Very crucial States/UTs like Jammu & Kashmir, Jharkhand, Uttarakhand, Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep have no Homes for juveniles. Similarly, North-East States like Arunachal Pradesh (1), Sikkim (1), Meghalaya (4), Mizoram (4) and Nagaland (2) have very few Homes. An evaluation was carried out in 2007 of the scheme 'A Programme for Juvenile Justice' under which grants were being given to State Governments for setting up and maintaining Homes of various types for children under the Juvenile Justice Act. It emerged from this evaluation that significant improvements were required in the quality of care being provided in these Homes. The recommendations included, *inter alia*, provision of adequate and trained staff; improvement in quality of infrastructure; provision of special care for special needs children; provision of age appropriate education and suitable vocational training and a focus on non-institutional care. The Ministry in 2009-10 introduced a new comprehensive Centrally Sponsored Scheme namely, the Integrated Child Protection Scheme by merging three earlier schemes for improving the quality of care and rehabilitation services for children in difficult circumstances. 'Elaborate staffing and financial norms for the component of 'institutional care' under ICPS were laid down and the responsibility for ensuring proper standards and quality of services in these Homes was entrusted upon the State Governments/UT Administrations as mentioned in the Juvenile Justice Act. The Act also requires the State Government to set up Inspection Committees for Children's Homes at State, District or City Level. The Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs) to be set up under the said Act are also required to monitor the Homes for proper functioning in addition to the setting up of Management Committee for each Home to be headed by the District Child Protection Officer of the District Child Protection Unit.

**1.7 The Committee in its 219th Report on Demands for Grants 2010-11 had appreciated the targets set by the Ministry with an allocation of Rs. 300 crore mainly for setting up of Juvenile Justice Board, Child Welfare Committee, Special Juvenile Police Units Child Protection societies etc. The Committee would like to reiterate its earlier recommendation of a speedy and accelerated implementation of the scheme so that the institutional set-up is in place for effective implementation of the scheme and of the JJ Act.**

## **II. CONSULTATION PROCESS**

2.1 The Committee has been given to understand that the Ministry of Women & Child Development has only consulted the Ministry of Health and Family Welfare who consulted experts/doctors in addition to consultation with Central T.B. Division, NACO and Mental Health Division and Central Leprosy Division regarding the discriminatory Acts against leprosy. The Ministry of Women & Child Development did not feel necessary to consult the States/NGOs as similar recommendations of removing the discriminatory provisions were highlighted in the order of the Hon'ble High Court in a PIL filed by Kushtha Asha Deep Federation which was later endorsed by the Rajya Sabha Committee on Petitions in its 131st Report supported by the advice of the Ministry of Health and Family Welfare. The Ministry of WCD, accordingly, decided to move the amendments expeditiously so that the children affected by such diseases in the Homes do not suffer the stigma traditionally associated with such diseases.

**2.2 The Committee appreciates the intention of the Ministry in bringing about this amendment for removing discriminatory provisions in the JJ Act as early as possible. However, the Committee is of the opinion that views of State Governments and NGOs should have been taken as the implementation of the Act lies in their hands. The practical difficulties faced in the proper functioning of Homes along with their monitoring through Child Welfare Committees and Juvenile Justice Boards should be taken into consideration as this amendment is likely to result in increase in the number of juveniles/children affected by the above mentioned diseases in the Homes. It is the responsibility of State Governments/UT Administrations to set up, maintain and upgrade the Homes for children either by themselves or through voluntary organization. The Committee, therefore, is of the opinion that views of at least those States having large number of Homes may be sought so as to initiate required action along with enforcement of proposed amendments.**

### III. Section 48 (2)

3.1 Clause 2 of Section 48 dealing with “Committal to approved place of Juvenile or child suffering from dangerous diseases and his future disposal” reads as follows:-

‘Where a juvenile or the child is found to be suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis and such other diseases or is of unsound mind, he shall be dealt with separately through various specialized referral services or under the relevant laws as such’.

It is proposed to delete this section of the Act which provides that a child affected with diseases such as leprosy, sexually transmitted diseases, Hepatitis B, open cases of TB and any other such diseases should be segregated from other children in the special home or institution. The Ministry clarified that all these diseases were treatable either in a domiciliary environment or in a controlled environment. That being the case, there was no need to deal with such children separately. It was clarified that the spirit behind the recommendation was to remove possibility of any discrimination against the children solely on account of their being affected by a disease. Attention of the Committee was drawn to the fact that similar to segregation on account of leprosy, segregation of children on account of other diseases could also result in their developing a feeling of isolation thus impacting on their personality or future life. It was also clarified that this proposed action of the Ministry was based on the opinion of the Ministry of Health & Family Welfare.

3.2 The Committee takes note of the following justification in support of inclusion of these diseases widening the scope of this amendment so as to cover not only leprosy but other diseases as well as furnished by Ministry of Health & Family Welfare:-

- (i) **Leprosy:** With introduction of Multi Drug Therapy, leprosy is cured within a period of six months or one year. As per WHO Publications, a single dose of Rifampicin is capable of killing 99.9% or more of viable organisms. Thus, there is no need for segregation of the leprosy patient under treatment and also it does not help in quickening curability.
- (ii) **TB:** Series of studies carried out by TB Research Centre (TRC), an ICMR Institute with the assistance of the British Medical Research Council, the World Health Organization (WHO) and the Government of India (GOI) demonstrated that the time-honoured virtues of segregation, sanatorium treatment such as bed rest, well balanced diet and other sanatoria based measures, were unimportant provided patients were diagnosed early and adequate chemotherapy was prescribed and fully taken. Further, there was no evidence that close family contacts of patients treated at home incurred an increased risk of contacting TB. Therefore, it would be appropriate to treat TB patients in their own homes. Certain types of TB patients whose sputum smear is positive for TB bacteria are more infectious than others. Once they are diagnosed and initiated on TB treatment, the infectiousness comes down drastically. However, segregation is not recommended based on the series of studies indicated above.
- (iii) **STD:** Transmission is through sexual contact. Segregation per se has no role in preventing transmission of the disease.
- (iv) **Hepatitis B:** Viral Hepatitis B is transmitted from one person to another either by sexual contact or by transfusion of blood and blood products. It is never transmitted by casual contact or by droplet infection. Accordingly, there is no need to segregate the children suffering from Hepatitis B.
- (v) **Mental Health:** The treatment of mental disorders in community settings as against institutional care is encouraged under National Mental Programme. Further, it may be mentioned that mental illness has been recognized as a disability in United Nations Convention on Rights of Persons with Disabilities (UNCRPD), of which India is a signatory, as well as Persons with Disabilities Act, 1995. UNCRPD mandates that appropriate action should be taken to mainstream and empower disabled persons. Therefore, any provision which requires segregation of the child/juvenile with disabilities, including mental illness which includes drug addiction, needs to be removed.

3.3 The Ministry also clarified that a case where child or juvenile suffering from a disease requiring prolonged medical treatment or physical or mental complaint may be sent to an approved place for the required treatment by the competent

authority as in Section 48 (1). Thus, if a child is suffering from acute mental disorder which may sometimes be violent in nature, he/she could be sent to the psychiatric hospital or nursing home for treatment and, then, would not be a threat to other children in the Home. As regards sexually transmitted infections, the Ministry submitted that these are transmitted by sexual route. Thus, a child with such diseases may not have an adverse impact on normal or healthy children, unless they have sexual relations with the infected child.

**3.4 The Committee welcomes the amendment of the Ministry in JJ Act which seeks to do away with the discriminatory provisions so that a child/juvenile suffering from leprosy or sexually transmitted diseases or Hepatitis B or open cases of Tuberculosis or is of unsound mind and such other diseases enjoys equal status as other citizens without any segregation or isolation. However, the Committee expresses its concern regarding the likelihood of adverse impact of juveniles who may be suffering from acute mental disorder (sometimes of a violent nature) or suffering from sexually transmitted diseases on the other normal healthy children. Committee's apprehensions are based on the ground realities prevailing in the Shelter Homes. Nobody would deny that fact that they cannot be equated with normal families residing in an overall atmosphere of hygiene and healthy conditions supplemented with love and affection of family members for each other. The Committee, therefore, is of the firm opinion that a close watch and monitoring of such juveniles needs to be kept, if they are not segregated from the other healthy children, to avoid any infection or adverse impact. The Committee recommends the Ministry to devise ways for proper monitoring of such children without their segregation.**

**3.5 Another area of concern highlighted by the Committee was the discrimination against the HIV affected children all over the country. Various cases of discrimination keep on being reported from different States at regular intervals where HIV affected children were boycotted in the schools. The Committee strongly feels that discrimination against HIV affected children also needs to be removed by incorporation of necessary provisions in the JJ Act. The Committee, accordingly, recommends the Ministry to make appropriate amendments after necessary consultations with respect to HIV affected children so that equality and dignity of such children is also maintained.**

#### **IV. Section 58**

4.1 Section 58 which relates to transfer of juvenile or child of unsound mind or suffering from leprosy or addicted to drugs reads as follows:

‘Where it appears to the competent authority that any juvenile or the child kept in a special home or a children’s home or shelter home or in an institution in pursuance of this Act, is suffering from leprosy or is of unsound mind or is addicted to any narcotic drug or psychotropic substance, the competent authority may order his removal to a leper asylum or mental hospital or treatment centre for drug addicts or to a place of safety for being kept there for such period not exceeding the period for which he is required to be kept under the order of the competent authority or for such further period as may be certified by the medical officer necessary for the proper treatment of the juvenile or the child’.

4.2 The above provision is proposed to be substituted by the following provision:

58(1) Where it appears to the competent authority that any juvenile or child kept in a special home or a observation home or a children’s home or a shelter home or in an institution in pursuance of this Act, is a mentally ill person or addicted to alcohol or other drugs which lead to behavioral changes in a person, the competent authority may order his removal to a psychiatric hospital or psychiatric nursing home in accordance with the provisions of the Mental Health Act, 1987 or the rules framed thereunder.

58(2) In case the juvenile or child had been removed to a psychiatric hospital or psychiatric nursing home under subsection (1), the competent authority may, on the basis of the advice given in the certificate of discharge of the psychiatric hospital or psychiatric nursing home, order to remove such juvenile or child to an Integrated Rehabilitation Centre for Addicts or similar centres maintained by the State Government for mentally ill persons (including the persons addicted to any narcotic drug or psychotropic substance) and such removal shall be only for the period required for the in-patient treatment of such juvenile or child.

Explanation.- For the purposes of this sub-section,----

- (a) “Integrated Rehabilitation Centre for Addicts” shall have the meaning assigned to it under the scheme called “Central Sector Scheme of Assistance for Prevention of Alcoholism and Substance (Drugs) Abuse and for Social Defence Services” made by the Government of India in the Ministry of Social Justice and Empowerment or any other corresponding scheme for the time being in force;
- (b) “mentally ill person” shall have the meaning assigned to it in clause (1) of section 2 of the Mental Health Act, 1987;
- (c) “psychiatric hospital” or “psychiatric nursing home” shall have the meaning assigned to it in clause (q) of section 2 of the Mental Health Act, 1987.

4.3 The reason given by the Ministry for bringing an amendment in this section was that certain derogatory terms like ‘lepers’ and ‘leper asylums’ needed to be deleted and terms like ‘of unsound mind’ and ‘drug addict’ be replaced with ‘mentally ill person’ and ‘addicted to alcohol or other drugs which lead to behavioral’ change in a person’ which were socially acceptable and suitable ones and also in consonance with the Mental Health Act, 1987.

**4.4 The Committee is in agreement with the proposed amendments in Section 58. The spirit of the amendment lies in making the transfer of juvenile or child of unsound mind or child suffering from leprosy or addicted to drugs from a special home or institutions to a place of safety and proper treatment in a dignified manner. Removing the derogatory terms and replacing others in consonance with the Mental Health Act, 1987 is a welcome amendment.**

**4.5 The Committee would also like to point out that initiative will have to be taken by the Ministry to sensitize the State Governments/concerned authorities running the Shelter Homes for providing specialized medical care to such children. At the same time, staff of Shelter Homes will also have to be made aware about the specific needs of these children and handling them accordingly. The Committee would appreciate if the Department takes the required steps for providing the necessary funds and training of staff in co-ordination with the concerned State Governments.**

5. The enacting formula and the title are adopted with consequential changes.

6. The Committee recommends that the Bill may be passed after incorporating the amendments/additions suggested by it.

7. The Committee would like the Ministry to submit a note with reasons on the recommendations/suggestions which could not be incorporated in the Bill.

## RECOMMENDATIONS/OBSERVATIONS ---- AT A GLANCE

### I. INTRODUCTION

The Committee in its 219th Report on Demands for Grants 2010-11 had appreciated the targets set by the Ministry with an allocation of Rs. 300 crore mainly for setting up of Juvenile Justice Board, Child Welfare Committee, Special Juvenile Police Units Child Protection societies etc. The Committee would like to reiterate its earlier recommendation of a speedy and accelerated implementation of the scheme so that the institutional set-up is in place for effective implementation of the scheme and of the JJ Act. (Para 1.7)

### II. CONSULTATION PROCESS

The Committee appreciates the intention of the Ministry in bringing about this amendment for removing discriminatory provisions in the JJ Act as early as possible. However, the Committee is of the opinion that views of State Governments and NGOs should have been taken as the implementation of the Act lies in their hands. The practical difficulties faced in the proper functioning of Homes along with their monitoring through Child Welfare Committees and Juvenile Justice Boards should be taken into consideration as this amendment is likely to result in increase in the number of juveniles/children affected by the above mentioned diseases in the Homes. It is the responsibility of State Governments/UT Administrations to set up, maintain and upgrade the Homes for children either by themselves or through voluntary organization. The Committee, therefore, is of the opinion that views of at least those States having large number of Homes may be sought so as to initiate required action along with enforcement of proposed amendments. (Para 2.2)

### III. SECTION 48 (2)

The Committee welcomes the amendment of the Ministry in JJ Act which seeks to do away with the discriminatory provisions so that a child/juvenile suffering from leprosy or sexually transmitted diseases or Hepatitis B or open cases of Tuberculosis or is of unsound mind and such other diseases enjoys equal status as other citizens without any segregation or isolation. However, the Committee expresses its concern regarding the likelihood of adverse impact of juveniles who may be suffering from acute mental disorder (sometimes of a violent nature) or suffering from sexually transmitted diseases on the other normal healthy children. Committee's apprehensions are based on the ground realities prevailing in the Shelter Homes. Nobody would deny that fact that they cannot be equated with normal families residing in an overall atmosphere of hygiene and healthy conditions supplemented with love and affection of family members for each other. The Committee, therefore, is of the firm opinion that a close watch and monitoring of such juveniles needs to be kept, if they are not segregated from the other healthy children, to avoid any infection or adverse impact. The Committee recommends the Ministry to devise ways for proper monitoring of such children without their segregation. (Para 3.4)

Another area of concern highlighted by the Committee was the discrimination against the HIV affected children all over the country. Various cases of discrimination keep on being reported from different States at regular intervals where HIV affected children were boycotted in the schools. The Committee strongly feels that discrimination against HIV affected children also needs to be removed by incorporation of necessary provisions in the JJ Act. The Committee, accordingly, recommends the Ministry to make appropriate amendments after necessary consultations with respect to HIV affected children so that equality and dignity of such children is also maintained. (Para 3.5)

### IV. SECTION 58

The Committee is in agreement with the proposed amendments in Section 58. The spirit of the amendment lies in making the transfer of juvenile or child of unsound mind or child suffering from leprosy or addicted to drugs from a special home or institutions to a place of safety and proper treatment in a dignified manner. Removing the derogatory terms and replacing others in consonance with the Mental Health Act, 1987 is a welcome amendment. (Para 4.4)

**The Committee would also like to point out that initiative will have to be taken by the Ministry to sensitize the State Governments/concerned authorities running the Shelter Homes for providing specialized medical care to such children. At the same time, staff of Shelter Homes will also have to be made aware about the specific needs of these children and handling them accordingly. The Committee would appreciate if the Department takes the required steps for providing the necessary funds and training of staff in co-ordination with the concerned State Governments.**

(Para 4.5)

# **MINUTES**

**XIII**  
**THIRTEENTH MEETING**

The Committee on Human Resource Development met at 3.30 P.M. on Monday, the 31st January, 2011 in Committee Room. 'D', Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

**RAJYA SABHA**

1. Shri Oscar Fernandes — *Chairman*
2. Shrimati Mohsina Kidwai
3. Shri Prakash Javadekar

**LOK SABHA**

4. Shri Kirti Azad
5. Shri P. K. Biju
6. Shrimati J. Helen Davidson
7. Shri P.C Gaddigoudar
8. Shri Rahul Gandhi
9. Shri P. Kumar
10. Shri Prasanta Kumar Majumdar
11. Shri Sheesh Ram Ola
12. Shri Joseph Toppo
13. Shri Vinay Kumar Pandey 'Vinnu'
14. Shri P.Vishwanathan
15. Shri Madhu Goud Yaskhi

**LIST OF WITNESSES**

**I. MINISTRY OF WOMEN AND CHILD DEVELOPMENT ON THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT BILL, 2010**

1. Shri D.K. Sikri, Secretary
2. Shri Sudhir Kumar, Additional Secretary
3. Ms. Preeti Madan, Joint Secretary
4. Ms. Kalyani Chadha, Director

**II. DEPARTMENT OF HIGHER EDUCATION ON THE FOREIGN EDUCATIONAL INSTITUTIONS (REGULATION OF ENTRY AND OPERATIONS) BILL, 2010**

1. Smt. Vibha Puri Das, Secretary
2. Shri Sunil Kumar, Additional Secretary
3. Dr. Ved Prakash, Vice-Chairman, UGC
4. Shri R.P. Sisodia, Joint Secretary
5. Dr. G. Narayana Raju, Joint Secretary, Legislative Counsel, Ministry of Law & Justice
6. Shri Diwakar Singh, Deputy Legislative Counsel, Ministry of Law & Justice

**SECRETARIAT**

Shrimati Vandana Garg, Additional Secretary  
Shri N.S. Walia, Director

Shri Arun Sharma, Joint Director  
Shri Sanjay Singh, Assistant Director  
Shrimati Himanshi Arya, Committee Officer  
Shrimati Harshita Shankar, Committee Officer

2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to hear the Secretary, Ministry of Women and Child Development on the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010 and the Secretary, Department of Higher Education on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010. The Chairman informed the members that the 229th Report of the Committee on the Architects (Amendment) Bill, 2010 was presented to Hon'ble Chairman, Rajya Sabha on 24th January, 2011. He, then, thanked the members for their co-operation during the study visit of the Committee from 17th to 23rd January, 2011 to Thiruvananthapuram, Bengaluru and Chennai.

3. The Committee, then, heard the views of the Secretary, Ministry of Women and Child Development on the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010. The Chairman and members raised certain queries which were replied to by the Secretary. The Committee decided to send a questionnaire to the Ministry for detailed replies.

(The witnesses then withdrew).

4. \* \* \*
5. Verbatim record of the proceedings was kept.
6. The Committee then adjourned at 6.10 P.M.

**XVI**  
**SIXTEENTH-MEETING**

The Committee on Human Resource Development met at 3.30 P.M. on Tuesday, the 22nd February, 2011 in Committee Room. 'B', Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**

**RAJYA SABHA**

1. Shri Oscar Fernandes — *Chairman*
2. Dr. K. Keshava Rao
3. Shri Prakash Javadekar
4. Shri M. Rama Jois
5. Shri N.K. Singh
6. Dr. Janardhan Waghmare

**LOK SABHA**

7. Shri P. K. Biju
8. Shri Suresh Chanabasappa Angadi
9. Shrimati J. Helen Davidson
10. Shri Tapas Paul
11. Shri Ashok Tanwar

**SECRETARIAT**

Shrimati Vandana Garg, Additional Secretary

Shri N.S. Walia, Director

Shri Sanjay Singh, Assistant Director

Shrimati Himanshi Arya, Committee Officer

Shrimati Harshita Shankar, Committee Officer

1. At the outset, the Chairman welcomed the members to the meeting of the Committee. Thereafter, the Committee took up for consideration draft 235th Report on the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010 adopted the same after some discussion.
2. Thereafter, the Chairman nominated Shri Keshava Rao, Member, Rajya Sabha and Shri P.K. Biju and Smt Helen Davidson, MPs, Lok Sabha to present/lay the 229\234th and 235th Reports of the Committee on the Architects (Amendment) Bill, 2010 the Central Educational Institutions (Reservation in Admission) Bill, 2010 respectively in both Houses of Parliament on the 25th February, 2011.
3. The Committee then adjourned at 4.00 P.M.

# **ANNEXURE**

**Bill No. LXXIII of 2010**

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)  
AMENDMENT BILL, 2010

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BILL

*further to amend the Juvenile Justice (Care and Protection of Children) Act, 2000.*

<p>Short title and commencement.</p> <p>Amendment of section 48.</p> <p>Substitution of new section for section 58.</p> <p>Transfer of juvenile or child as are mentally ill or addicted to alcohol or other drugs.</p>	<p>BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—</p> <p><b>1.</b> (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Amendment Act, 2010.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> <p><b>2.</b> In the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the principal Act), in section 48, sub-section (2) shall be omitted.</p> <p><b>3.</b> For section 58 of the principal Act, the following section shall be substituted, namely:—</p> <p>'58. (1) Where it appears to the competent authority that any juvenile or child kept in a special home or an observation home or a children's home or a shelter home or in an institution in pursuance of this Act, is a mentally ill person or addicted to alcohol or other drugs</p>	
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which lead to behavioural changes in a person, the competent authority may order his removal to a psychiatric hospital or psychiatric nursing home in accordance with the provisions of the Mental Health Act, 1987 or the rules made thereunder.

(2) In case the juvenile or child had been removed to a psychiatric hospital or psychiatric nursing home under sub-section (1), the competent authority may, on the basis of the advice given in the certificate of discharge of the psychiatric hospital or psychiatric nursing home, order to remove such juvenile or child to an Integrated Rehabilitation Centre for Addicts or similar centres maintained by the State Government for mentally ill persons (including the persons addicted to any narcotic drug or psychotropic substance) and such removal shall be only for the period required for the in-patient treatment of such juvenile or child.

*Explanation.*-For the purposes of this sub-section,—

(a) “Integrated Rehabilitation Centre for Addicts” shall have the meaning assigned to it under the scheme called “Central Sector Scheme of Assistance for Prevention of Alcoholism and Substance (Drugs) Abuse and for Social Defence Services” made by the Government of India in the Ministry of Social Justice and Empowerment or any other corresponding scheme for the time being in force;

(b) “mentally ill person” shall have the meaning assigned to it in clause (I) of section 2 of the Mental Health Act, 1987;

(c) “psychiatric hospital” or “psychiatric nursing home” shall have the meaning assigned to it in clause (q) of section 2 of the Mental Health Act. 1987.’.

## STATEMENT OF OBJECTS AND REASONS

The Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted to provide a juvenile justice system for juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto.

2. Section 48 of the said Act provides for committal to approved place of juvenile or child suffering from dangerous diseases and his future disposal. Sub-section (2) of this section provides that where a juvenile or the child is found to be suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis and such other diseases or is of unsound mind, he shall be dealt with separately through various specialized referral services or under the relevant laws as such.

3. Section 58 of the Act, *inter alia*, provides for the transfer of juvenile or child of unsound mind or child suffering from leprosy or addicted to drugs from special home or children's home or shelter home or an institution to a mental hospital or a leper asylum or treatment centre for drug addicts or to a place of safety for being kept there for a period as may be required.

4. The provisions referred to in the preceding paragraphs 2 and 3 provide for segregation of such children from other children in the special home or children home or shelter home or an institution which appear discriminatory in nature. In the opinion of experts also, segregation is no more necessary for the treatment of such children. The Union Ministry of Health has also recommended for amendment of the aforesaid Act for removing the discriminatory provisions.

5. Hon'ble High Court of Delhi *vide* an interim order dated 4th February, 2009 in a Public Interest Litigation filed by Kusth Asha Deep Foundation, [Writ Petition (Civil) No. 8112/2007 against Union of India and Others] held that there is urgency and need for immediate steps to be taken both to remove/amend discriminatory legislations and to ensure that the patients/ persons suffering from leprosy enjoy equal status as other citizens.

6. Rajya Sabha Committee on Petitions for Integration and Empowerment of Leprosy Affected Persons, in its 131st Report presented on 24th October, 2008 has also recommended that there is a need to amend the relevant provision of the Act so that the juvenile or child is not subjected to segregation or discrimination.

7. In view of the position stated in the foregoing paragraphs, the Central Government has decided to amend the Juvenile Justice (Care and Protection of Children) Act, 2000, *inter alia*, to remove discriminatory provisions in the said Act against children and to—

(a) omit sub-section (2) of section 48 which requires a juvenile or child suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis and such other diseases or of unsound mind, to be dealt with separately through various specialised referral services or under the relevant laws as such; and

(b) substitute section 58 by a new section to provide that—

(i) where it appears to the competent authority that any juvenile or child kept in a special home or an observation home or a children's home or a shelter home or in an institution in pursuance of this Act, is a mentally ill person or addicted to alcohol or other drugs which lead to behavioural changes in a person, the competent authority may order his removal to a psychiatric hospital or psychiatric nursing home in accordance with the provisions of the Mental Health Act, 1987 or the rules framed thereunder;

(ii) in case the juvenile or child had been removed to a psychiatric hospital or psychiatric nursing home as mentioned in (i) above, the competent authority may, on the basis of the advice given in the certificate of discharge of the psychiatric hospital or psychiatric nursing home, order to remove such juvenile or child to an Integrated Rehabilitation Centre for Addicts or similar centres maintained by the State Governments for mentally ill persons (including the persons addicted to any narcotic drug or psychotropic substance) and such removal shall be only for the period required for the in-patient treatment of such juvenile or child.

8. This Bill seeks to amend the Juvenile Justice (Care and Protection of Children) Act, 2000 to achieve the above objects.

NEW DELHI;  
*The 6th October, 2010.*

KRISHNA TIRATH

ANNEXURE

EXTRACTS FROM THE JUVENILE JUSTICE  
(CARE AND PROTECTION OF CHILDREN) ACT, 2000

(56 OF 2000)

<p>Committal to approved place of juvenile or child suffering from dangerous diseases and his future disposal.</p> <p>Transfer of juvenile or child of unsound mind or suffering from leprosy or addicted to drugs.</p>	<p style="text-align: center;">* * * * *</p> <p><b>48. (1)</b> * * * *</p> <p>(2) Where a juvenile or the child is found to be suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis and such other diseases or is of unsound mind, he shall be dealt with separately through various specialised referral services or under the relevant laws as such.</p> <p style="text-align: center;">* * * * *</p> <p><b>58.</b> Where it appears to the competent authority that any juvenile or the child kept in a special home or a children's home or shelter home or in an institution in pursuance of this Act, is suffering from leprosy or is of unsound mind or is addicted to any narcotic drug or psychotropic substance, the competent authority may order his removal to a leper asylum or mental hospital or treatment centre for drug addicts or to a place of safety for being kept there for such period not exceeding the period for which he is required to be kept under the order of the competent authority or for such further period as may be certified by the medical officer necessary for the proper treatment of the juvenile or the child.</p> <p style="text-align: center;">* * * * *</p>	
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**RAJYA SABHA**

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further to amend the Juvenile Justice (Care and Protection of Children) Act, 2000

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*[Shrimati Krishna Tirath, Minister of State (Independent Charge) of the Ministry of  
Women and Child Development]*