Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021

Why in news?

- The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021, was passed in Rajya Sabha. It was earlier passed in the Lok Sabha.
- The Bill seeks to amend the Juvenile Justice (Care and Protection of Children) Act, 2015.

What was the 2015 Act?

- The 2015 Act replaced the Juvenile Delinquency Law and the Juvenile Justice (Care and Protection of Children) Act 2000.
- **Crime** - It allows the trial of juveniles in conflict with law in the age group of 16-18 years as adults, in cases where the crimes were to be determined.
- The nature of the crime, and whether the juvenile should be tried as a minor or a child, was to be determined by a Juvenile Justice Board.
- **Adoption** - The Act brought more universally acceptable adoption law instead of the Hindu Adoptions and Maintenance Act (1956) and Guardians of the Ward Act (1890) which was for Muslims.
- The Act however did not replace these laws.
- The existing Central Adoption Resource Authority (CARA) was given the status of a statutory body to enable it to perform its function more effectively.

What are the provisions empowering the DMs?

- With more powers, the District Magistrates (DMs), including Additional DMs (ADMs), can now issue adoption orders under Section 61 of the JJ Act.
- DMs and ADMs will also monitor the functioning of various agencies under the JJ Act in every district.
- These include the Child Welfare Committees (CWCs), Juvenile Justice Boards, District Child Protection Units and Special Juvenile Protection Units.
- The changes will ensure speedy trials and increased protection of children at the district level, and will also enhance accountability.
- [Adoption processes are currently under the purview of courts. With an overwhelming backlog, each adoption case could take years to be passed.]

- The DMs will also carry out background checks of CWC members to check for possible criminal backgrounds.
- This is to ensure that no cases of child abuse or child sexual abuse is found against any member before they are appointed.
- [CWC members are usually social welfare activists with educational qualifications.]
- The CWCs should report regularly to the DMs on their activities in the districts.
- **Concern** - The DM is in charge of all processes in a district including all task forces and review meetings.
- So, it is felt that the too many responsibilities given to DMs under the amendment may not be given a priority.

What are the changes made in offences by juveniles?

- Under the 2015 Act, offences committed by juveniles are categorised as heinous offences, serious offences, and petty offences.
- Most heinous crimes have a minimum or maximum sentence of 7 years, and juveniles between 16-18 years age would be tried as adults for these.
- Serious offences generally include offences with 3 to 7 years of imprisonment.
- The 2021 Bill adds that serious offences will also include offences for which maximum punishment is imprisonment of more than 7 years, and minimum punishment is not prescribed or is less than 7 years.
- Presently, there is no mention of a minimum sentence in the JJ Act.
- So, juveniles between the ages of 16-18 years could also be tried as adults for a crime like the possession and sale of an illegal substance.
- Such offences will now fall under the ambit of a "serious crime''.
- The provisions thus ensure that children, as much as possible, are protected and kept out of the adult justice system.
- The Act also provides that offences against children that are punishable with imprisonment of more than 7 years, will be tried in the Children's Court.
- And offenses with punishments of less than 7 years imprisonment will be tried by a Judicial Magistrate.

What is the need for the Amendment now?

- NCPCR (National Commission for Protection of Child Rights) filed a report in 2018-19, surveying 7,000 Child Care Institutions (CCIs or children's homes).
- Most of the institutions were found breaching the JJ Act regulations and children were found to be in unsanitary conditions in portacabins.
- CCIs fall under the CWC and the state child protection units, but they had very little oversight and monitoring.

- The new amendment is to address these concerns and see to it that no new children's home can be opened without the sanction of the DM.
- **Way ahead** - To ensure proper implementation, the DMs will have to hold regular fortnightly meetings with all five arms - CWC, JJ Board, CCI, district child protection units and special juvenile police units.
- Specific training in child protection rules will also have to be imparted, as DMs usually are not trained or equipped to deal with these specific laws.

Source: The Indian Express

