

[Mr. Deputy Speaker]

"that this House do recommend to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 15 members to be appointed by Rajya Sabha to the Joint Committee."

*The motion was adopted.*

15.20 hrs.

### JUVENILE JUSTICE BILL, 1986

[English]

MR. DEPUTY-SPEAKER : Now we will take up Item No. 12. Smt. Rajendra Kumari Bajpai.

THE MINISTER OF STATE OF THE MINISTRY OF WELFARE (DR. RAJEDRA KUMARI BAJPAI) : I beg to move :

"That the Bill to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to and disposing of, delinquent juveniles, be taken into consideration."

Sir, in the last session of this House, I had introduced the Juvenile Justice Bill, 1986 which seeks to provide for the care, protection, treatment and rehabilitation of neglected or delinquent children and for the adjudication of matters relating to and disposal of delinquent juveniles.

The existing approach towards children who violate law or are found in situation of social maladjustments is governed by the Children Acts in various States. Besides laying down for the differential treatment of juvenile delinquents as compared to the procedure in the Code of Criminal Procedure for adult offenders, these Acts provide for care, protection and rehabilitation of certain categories of children. A review of the Children Acts show that there are

certain lacunae and variations in the basic provisions in regard to the age group and the machinery for trial and processing. The age group of delinquent children or those children who do some

15.21 hrs.

[SHRI VAKKOM PURUSHOTHAMAN  
*in the chair*]

offence is not uniform and at the same time, the machinery for trial and processing are also not uniform. The infrastructure for implementation of such acts is not uniformly available in various parts of the country. The Children Acts are not new in this country, but still it is not properly implemented. There are also very glaring differences in the penalties prescribed for offences against children under substantive law and special enactments. That is one important point. Thus for the offences forcing children to beg, the penalty prescribed under the Indian Penal Code and the Anti-Beggary Laws are more stringent than those under the various Children's Acts. So we have to see both the sides that children are not compelled to beg and those persons or groups of people who compel poor children to beg are taken into task and stringent punishment is given to them. There is also no scientific system in classifying delinquent children on the basis of the nature of offences and other circumstances related to the offences. It also came to light. That is also one lacuna in the existing Act in different States. As a result all offenders whether they are guilty of very minor crime or very serious and heinous crime are treated at par, that is the cruel part which the children are facing now-a-days. Children are kept with hardened criminals in jails. So, we have to see that those children who have only committed very minor offences, they are at least not treated like criminals who are languishing in jails. So, these are the points. In the absence of any uniform and well-defined norm and standard under common legislation, the quality of services has often been the subject of severe criticism, in various forums. You know that recently, the Supreme Court also passed a judgement that children should not be kept with hardened

criminals. They should not also be kept in jails for more than three months. Their case should be disposed of within three months. Since the enactment of the new Code of Criminal Procedure, 1973 which has made it mandatory for juvenile delinquents to be treated under the Children Act, the need to evolve a unified framework for the country as a whole has been widely felt. So, there was the need to bring this uniform Bill, and that is why it has been brought in before Parliament for consideration.

It has also been felt that such a legislation should take into account the social, cultural and economic pressures of modernization, and accelerated pace of migration from rural to urban areas. One of the causes of child delinquency is that with modernization and industrialization, population from rural areas is migrating to urban areas. When those people come to urban areas seeking employment, their life is changed. The protected life in rural areas is changed, when they come to urban areas, and the child becomes a victim of this change.

The erosion of protective institutions and a set pattern of life have added to the problems of children now, because in the urban areas the type of protection which they were getting in rural areas, in rural society, is not found in urban areas. That is one of the causes why in all these changes the group of people which has suffered most is that of children, in whom an increasing trend of delinquency is discernible.

Children are really the victims of such changes, and such modernization. So, there is a strong demand all over the country that the Children Acts require to be rationalized. We must now think in modern terms as to what are the present needs. Accordingly, we have to rationalize the whole Act in respect of children in need of care and protection from the view-point of social defence. Most of such children are in fact victims of deprivation and neglect, or are maladjusted due to the breakdown of the protected mechanisms at the primary level. Once their parents migrate to towns, to big cities seeking jobs and join some factory—or go in for some jobs, and both father and

mother might start working—the child is left alone in the slum areas, and in slum conditions. He is the victim of the situation prevailing there. In the initial stage, he does not understand what is going on there. The parents are also not able to understand the difference. But gradually, the harm is done, and the child becomes delinquent later on. So, there are circumstances, and they become the victim of those circumstances.

It has been felt that these children can best be taken care of, within their natural milieu of the family, school and the neighbourhood. This is the whole approach of this Bill. It is, therefore, imperative that in order to tackle the problem in its full range, the juvenile justice system should correct such aberrations where they actually occur. This awareness calls for a new concept of juvenile justice. And with that new concept, we are bringing in this new legislation here. This has to be evolved in place of the traditional approach of corrective action, only when the law is violated, or is likely to be so.

This approach therefore, envisages the active involvement of community-based welfare agencies.—These are the salient features of this Bill. We have to work in such a way that a delinquent child is not treated only as a criminal but community-based welfare agencies take care of that child and he should come to normal life after some time—in the care, protection and rehabilitation of such children within the legal framework. The law should clearly spell out the responsibility of the State towards protecting the riots of children who become victims of situational compulsions. That is also one of the aims of this Bill. The juvenile justice Bill viewed in this context seeks to replace the traditional structure of dealing with the juvenile delinquents. Whatever the traditional way of dealing with juvenile delinquents. Whatever the traditional way of dealing with the juvenile delinquents, now we are changing that and the treatment which that juvenile delinquent child will now need or he will be treated will be quite different from what he was getting till now.

[Dr. Rajendra Kumari Bajpai]

The objectives of the Juvenile Justice Bill thus are to lay down a uniform legal framework for juvenile justice in the country so as to ensure that—this is very important part of the Bill—no child under any circumstances is lodged in the jail or police lock up; and we are completely abolishing this type of treatment for a delinquent child, and under no circumstances a delinquent child will be placed in jail or police lock up. The Bill seeks to provide a specialised approach towards the prevention and treatment of juvenile delinquency—this is the most significant part and object of the Bill—in its full range in keeping with the developmental need of the child found in any situation of social mal-adjustment. We have to differentiate between a child who has committed some offence and a child who—because of mal-adjustment or some compulsions—has become a victim of some very mild type of a crime. So, we have to discriminate with all these things. The Bill spells out the machinery and infrastructure required for the care, treatment and rehabilitation of various categories of children coming within the purview of the juvenile justice system. Our approach is that we have to take care of such a child and we have to treat such a child as a normal child and we have to see that these children come to normal life remaining in such homes with the welfare societies which will be taking interest in them or taking the responsibility of these children. They will be given some vocational training and such other things so that they are not all the time regular offenders, but their life will be corrected and they live a normal life. The Bill seeks to establish norms and standards for the administration of juvenile justice in terms of investigation and prosecution, adjudication and disposition, and care, treatment and rehabilitation. So, these are the wider ranges, these are the activities, these are the points, these are the objectives for which this Bill is brought here.

The Bill seeks to develop appropriate linkages and coordination between the formal system of juvenile justice and voluntary agencies and one of our objects is to involve more and more voluntary agencies in this work, because they are not going to put the child in police lock up or jail. So, in that event the

voluntary agencies will have to take care of the child; they will be authorised to take care of such children or the Government will see that this organisation is able to build up in such a way that the child feels that it is living in a family. So, under this Act, the voluntary agencies have to play a very important role and that too a very useful role.

And finally, the Bill seeks to bring operation of Juvenile Justice System in the country in conformity with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

Now we are adopting this system and by that we will be acting in conformity with the United Nations Minimum Standard, that is the Minimum Standard Rules, which have been laid down by the United Nations for Juvenile Justice.

These are the points I want to highlight.

The Bill provides a uniform coverage of age of a juvenile up to 16 years in the case of a boy and 18 years in the case of a girl. These are the salient features of the Bill. We have accepted that there should be a uniform age, which should be 16 years in the case of boys and 18 years in the case of girls.

The Bill seeks to put a total ban on the confinement of the juvenile in jail or police-lock-up. That is the second provision.

Then the Bill provides for authorisations of voluntary workers and organisations for the referral of non-delinquent juveniles to the competent authorities and institutions under the proposed law.

The Bill provides for separate of authorities for adjudication of delinquents and non-delinquent and separation of non-delinquents from delinquents and of petty offenders from hardened ones at various stages of apprehension, processing and placement. And this is one of the very important things which we are going to adopt in future and that will mould the whole life of the child.

The Bill seeks to widen the range of dispositional alternative for rehabilitation with preference to community-based care. It is not that if any child has committed an offence we just put the child in some corner and there the matter ends. That is not the point. And that is the approach now. Our approach is that we have to see that in preference to community-based care, we are going to further take care of the child. And it is for the first time that this we are going to adopt this approach and this is one of the very major approaches and will help in promoting social welfare of our society and our country, such as foster care, adoption, sponsorship, probation and community service and use of institutional care only as a last measure.

The Bill provides for minimum standards for institutional and non-institutional services for various categories of juvenile and for special procedure for handling, processing, placement, appeals, revision, etc., to be followed by the competent authorities. So special emphasis has been put on that. We do not make a child a criminal. Rather these are correctional methods, correctional and welfare approach. The Bill provides for a comprehensive system for after-care and follow-up of cases processed through juvenile justice system. This is also one of the important aspects of this Bill. By this we are going to take care of children and we are going to take their responsibility. Rather we are trying to involve the community in this, because we know that the children are the treasure of the nation and we have to treat them like that, so that their life is not spoiled because of their committing petty offences. Because of ignorance if they commit petty offence, it is not as if they are criminals by nature. No child is criminal by nature. So, we must give him time for correction so that again he can come to the normal life.

The Bill provides for greater involvement of voluntary organisations, mobilisation of funds from private and public organisations and individuals generating awareness and participation in the welfare and rehabilitation of socially handicapped children. We have taken care of all sorts of children. There is a greater thrust towards education, vocational training and rehabilitation of juvenile delinquent under the proposed law.

It is not as if they are to be put in some Jail are some home. After-care will be taken for their education and vocational training. After completing that, they will be rehabilitated in the society. This is the main purpose of this Bill.

The Bill also seeks to enhance punishments of offences against employment of juveniles for begging, giving intoxicating liquor or dangerous drug to a juvenile and exploitation of juvenile employees.

With these words, I move that the Juvenile Justice Bill be taken into consideration and passed.

MR. CHAIRMAN : Motion moved :

"That the Bill to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles, be taken into consideration."

SHRI K. RAMACHANDRA REDDY (Hindupur) : The Government has come forward with the Juvenile Justice Bill. Previously also, there have been many Acts concerning children. But there are some defects in the previous Acts. And the hon. Minister, wittingly or unwittingly, has said that there is difficulty in implementing these Acts and that is why, she has come forward with this Bill which is supposed to be a consolidated one.

Through this Bill they want to achieve many things. The long title of the Bill is clothed in very juicy and attractive terms. It says: "to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles. Let us see whether the Government is able to achieve all these objectives or some of them. If they do so, I will certainly compliment the Government and congratulate the Government.

There are so many lacunae and ambiguities in the Bill because the Bill has been drafted in a hurry and in a very cursory way,

[Shri K. Ramachandra Reddy]

That is why, all these difficulties have come. With regard to implementation also, there are so many defects in this. I will bring one or two instances to your notice. A number of social legislations have been passed in the past, but when it comes to the question of implementation, as the hon. Minister has put it, implementation has become very very difficult. In fact, some social legislations which could not be implemented were passed in the past and these legislations had been passed to prevent evils in the society. But when the people are not prepared to accept them, those have become very very futile and they have been followed more in the breach than in the implementation. For example, you take the anti-dowry laws. Let the Minister or anybody say whether this Act has been followed. Is the society ready to adopt this Bill? As far as the dowry system is concerned, the Act has not in any way prevented the system of dowry in the society. The Government has completely failed in implementing it.

In the previous session we have passed a legislation whereby we wanted to prevent the child labour. How far have you been able to implement that Act? Is there a single case where you have saved a young person from being employed as labour? There are no statistics. In the previous session you have also passed a Bill to curb the terrorist activities. How far have you been able to curb the terrorist activities? After passing the Bill it was hoped that terrorism will come to an end, that you will be able to completely put down terrorism. But alas, what has happened! The terrorism has increased. It has been doubled, tripled, increased manifold. I hope that after passing this Bill the offences against the young juvenile people will not increase.

When I go through this Bill, for the juveniles, I feel that though the Bill is supposed to be a boon for the young people, it will be a curse or a sap for them. The Bill is very defective because the fundamental consideration itself is defective. The draftsman has not taken the poor people of the society into consideration as to how they are living, what is their means of livelihood, how their parents are living. These things have not been taken into consideration at all. That is why I say the Bill is defective.

Even though both the father and the mother are working together, they are not able to make their both ends meet. And still those people are producing five to ten children and these children are left in the lurch. For these children there are no schools, there are no hospitals, there is no means of livelihood. Nobody cares for them. In order to see that something is done for these people, they say that the Bill has been brought forward. But one thing they have forgotten that unless you are able to improve the economic condition of the parents, these sorts of Bills are not going to be of any use at all. That is why I say that this Bill has been brought without taking into consideration the society or without consulting the society, without consulting those people who are expected to start the homes for these juveniles.

Number of social organisations are there. The Bill should have been sent to them for their opinion and consideration and then it should have been drafted.

I would like to point out a few defects in this Bill. There are two organisations to be created for the juveniles whose parents are not caring for them or when they commit some offences and are found guilty. One is the Juvenile Welfare Board and the other is the Juvenile Court. When you go through the Bill, you will find that both the Juvenile Welfare Board and the Juvenile Court are to be created. When you create two organisations, there is likely to be clash in their functions. Their functions may be overlapping. So, either they should remove the Welfare Board or the Juvenile Court or completely make them different and distinct. It should be defined clearly as to what will be the functions of the Welfare Board and what will be the functions of the Juvenile Court. You must be able to define these things clearly otherwise when these two things co-exist, there will be so many matters where they will be having no jurisdiction. One organisation will try to throw the responsibility on the other. Yesterday I heard about the Prime Minister's security. There are three or four organisations involved and each organisation is trying to throw the blame on the other. Nobody is prepared to take the responsibility on himself. Similarly, the Welfare Board and the Juvenile Court are likely to throw the responsibility on each other.

We send these juveniles to different homes i.e. juvenile homes, special homes, observatory homes and after care organisations. What is the function of these different homes has not been clearly defined. It has been a jumble so far as these clauses 9, 10, 11 & 12 are concerned wherein mention of these homes has been made. The functions must be completely and clearly demarcated and defined. So many homes have been started. Something tangible must be done for these juveniles.

The age of the boy has been fixed at 16 whereas for the girl it is 18. Most of the girls are taken away by force or persuasion or threats. They have been drafted into prostitution. A number of brothel houses are there in the cities. Police is not able to do anything so far as these brothel houses are concern. Social organisations are not able to touch them. In what way will this Bill save those unfortunate girls who have been forced to prostitution. This Bill does not provide any remedy for them.

So far as boys are concerned, they are being used for various purposes. These boys are taken away by criminals. They break their limbs, maim them, remove their eyes and use them for beggary. How are you going to prevent this sort of action by this Bill? There are quite a good number of people who are in the habit of maiming the boys and putting them to beggary, etc. I.P.C gives a higher punishment for these offences. I do not know how will this Bill come to their help? So far as this Bill is concerned, the delinquent or a young man on committing offence is tried in a special court and the punishments are different from that of I.P.C. Juvenile is not sent to jail. He will be left with admonition or he may be given probation for a year or so. Or he may be sent to one of those four homes as mentioned in clauses 9 to 12. A provision has been made to keep vigilance over them for two to three years. The punishment has been minimised. I would request the hon. Minister to think over the matter of punishments to be awarded to the juveniles very closely. I say so because when this man is not given punishment, the criminals take advantage of it. They get the offences committed. In that case the person behind the scene should be dealt with very severely. What do these persons

behind the scene do? They catch hold of these boys. Bring them to big cities. Make them stray in the streets to commit offences. These people train them to commit offences. When these young boys fall in the hands of the criminals they teach them to commit robbery. They teach them to commit theft, to commit murder and indulge in smuggling. So, a number of things are there. They will teach them and then these boys will go according to the plan and they will commit the offence. Even if they are caught they are not punished severely and those people in the background are not brought into the picture. How they are going to be punished is not mentioned in this Bill. So, as this is concerned, this Bill is very very silent. Also there are clauses which say that if anybody uses these people either for beggary or for some other offence, then they will be punished with 6 months to 3 years imprisonment. What is this? After all, a dacoit commits a number of offences through them, he can prompt them to commit a murder, he may rob a bank and these boys are very well used for smuggling and selling narcotics whereby the young people are spoiled. We also passed the Narcotics Act last year. In doing all these things there is a good handle for those unsocial elements. They are going to utilise these young people for all these offences and they will benefit by them and they will tell the boys: 'After all, you are not going to be sentenced. At best they will admonish you and send you to a home or at best they will give probation for a year or two or they will send you to the reformatory school. You will be there for two or three years'. Like this, these unsocial elements will take advantage of the situation and fill their pockets, with booty. That is why this Act is likely to result in a boon for these young people.

The other defect about this Act is this. You say, these provisions are there in the Cr.P.C. In the other clauses you say about the provisions of Cr.P.C. Why do you draft a Bill like this? The procedure may be in the Cr.P.C. Either you retain it or take it away from the Cr.P.C. completely. If the provisions are there in the Cr.P.C., why do you bring in this legislation? I do not understand.

[Shri K. Ramachandra Reddy]

Nobody knows whether the offences are cognizable or non-cognizable. The boy commits an offence. An unsocial element behind him makes him commit that offence. You cannot punish him. You cannot prove it also. It is very very difficult to prove. Even if he is caught, he can get a punishment for a period of three months or so. Can you punish such people without warning? Can you make these offences cognizable? You cannot take out this Act from the purview of the Cr.P.C. Like this, the Bill is full of loopholes. That is why I request the hon. Minister not to be in a hurry. Please withdraw this Bill for the present consider it, or send this Bill for circulation among all organisations. Then think whether you are able to implement the clauses of this Bill. Otherwise it is one more legislation where you are not able to implement it. People are laughing at so many legislations which you are not able to implement. So, I request the Minister to withdraw this Bill. Don't stand on prestige You withdraw this Bill for the moment and come forward later with a comprehensive Bill where all these loopholes are plugged. Then only you will be able to do some justice to these hapless children.

16.00 hrs.

And the other thing is, as far as financial status is concerned, unless you are able to improve the financial status of those poor fathers and mothers, you will not be able to improve the lot of these people. So, this is a social legislation and finance is also involved. Therefore, I request the hon. Minister to consider this Bill in depth and see that it is postponed for some more time and then the opinion of the public is elicited on the Bill.

DR. PHULRENU GUHA (Contai) :  
Sir, I welcome most heartily the Bill No. 103 of 1986, namely, the Juvenile, Justice Bill of 1986. It should be more comprehensive. There is no doubt about that. But still, I am very happy that this type of Bill has come for the first time before the House. I would like to say one thing that my previous speaker has spoken that the girls who are forced to take the lives of prostitution are delinquent Juveniles. I am sorry to say that

because I have worked among delinquent Juveniles personally and I have worked among prostitutes. They are two different categories altogether. We should not mix them up.

Sir, I would like to say that the children are not born as delinquent juveniles. It is because of the circumstances, because of the family atmosphere, because of various other reasons, a child becomes delinquent juvenile. We should not mix up the issue that the child is born as delinquent. I may mention here that we have done extensive survey, rather a research project and a book on it is published and it is quite welcomed by many of the people who are doing this type of work. And the project was done with the money provided by the Government of India. I can say with confidence that the children are born not as delinquent ; they become delinquent because of atmosphere, circumstances, bad company, or even family circumstances. On the basis of survey, we have seen that the reason for many children who have become delinquents is because the parents quarrel among themselves. It is a very new thing. But may-be it is a fact that the quarrel among the parents reflects on a child. It is not that it always reflects on all the children. But some sensitive children do react and become delinquent.

I would like to point out another point that when a child is completely delinquent only then, we like to treat him. But we do not have the system when a child starts showing delinquency, we should do something for him. With confidence, I can say that if the children can be treated at the beginning of the life they do not become delinquent. So I request that there should be a system by which when a child becomes a little abnormal, he or she, boy or girl, should be treated. I would like to say that when the child is a little abnormal, people think that he is disobedient, and that he does not listen to anybody and that he is adamant etc. But we never go into the root of the problem. When they become absolutely delinquent, we take care of them. But we must try to prevent these children from becoming absolutely delinquent. We take care of them but we must try to prevent these children from becoming

delinquent. We should not forget that because of the socio-economic condition of our country and because in our society we have become a nuclear family, the parents have no time to look after the child. In the olden days when a child becomes a little abnormal, the old lady could find out and prevent. Now we do not have any system and it is not possible either because parents are very much engaged in their own work. So, there should be two systems, one is in the school and the other is outside the school. I know that it will be expensive. I know it is not very expensive but it will be expensive. The social worker can look after the children of the group of school and, if necessary, it will be referred by the social worker to psychologists or psychiatrists. I am saying that with confidence because with my little experience I have seen a number of children who could be saved. That is why I request the Minister. I know that you may not be able to do it just now but in the next year Budget, you can start a small nucleus and you will get the results.

I would like to say that our Minister has mentioned about the voluntary organisations to be involved. I am sorry to say that there are a few voluntary organisations which are doing work on juvenile delinquency but they do not get adequate financial aid from the Government.

It is also necessary that after the social worker deals with the children, it will be necessary in certain cases, to send them to the psychologists and psychiatrists.

I would like to raise another question which is a very ticklish one. But still I would like to say about the Probation Officers. I have seen a number of Probation Officers and I found many of them are not fit for it simply because they have taken the job. They do not have the psychological tune with the children. There are a few very good Probation Officers also, I know. I can name them also. I am sure there are other very good Probation Officers also throughout our country but what I would like to say is that before a Probation Officer is appointed, we should not see his University qualification only. We must see his or her attitude towards

life, attitude towards children. Unless he has that attitude towards children, a Probation Officer cannot be given the job of Probation Officer.

I would like to say one or two things. In the Chapter III, it is said 'neglected children'. I feel that the very name of this Chapter is not correct. Juveniles are neglected either in the family or in the society. When a person is neglected, only then he becomes a juvenile. That is why. I say this Chapter should not have been mentioned as 'neglected juveniles.' But in any case I say that it is good that the Bill has come and I hope that it will be helpful to deal with the juvenile delinquent children in our country. It is good that the Board is going to be formed. But as far as I know, the Board is already there. The Court is already there. But you are extending that and giving them the specific work. It is not new that the Board will be formed. It is not new that the Courts will be formed. Courts are there. Boards are there. You are only giving them more work and specific work. That is what I say. I do not like to take much of the time. I would like to appeal to the Minister that along with this Bill, afterwards you must have a system to prevent delinquency. It is no good that our children are delinquents. We have to do the preventive work. This is an age of prevention. Even in medicine, we are going in for preventive medicine. So, this is a social system—not only social system but I should say because of the system delinquents are becoming more in number. So, please consider and have a system in a small way and then extend it in an adequate manner.

SHRI A. CHARLES (Trivendrum) : Mr. Chairman, Sir, there is a widespread exploitation of children especially in the third-world countries. In this country also, the number of neglected children are numerous. Under Article 24 of the Constitution, the employment of children below the age of 14 in factories, mines and other hazardous occupations are prevented. But in spite of that, the statistics shows that there are as many as 17 million children who are engaged in hazardous occupation in this country. Other statistics reveal that the total labour force in this country includes almost 44 million children and most of them come

[Shri A. Charles]

under the category of either neglected or delinquent or who are not cared for either by the parents or by the society. So, I congratulate the Minister under the circumstances for bringing forward a very comprehensive legislation for the care, protection, treatment, development and rehabilitation of juvenile who are found in situations of social mal-adjustments, delinquency or neglect. I think this is the first time, after 39 years of independence, to bring forward such a full legislation covering all aspects of life of the juveniles. This is not meant only to meet the delinquency or to punish them. This is meant for a total change of the children. The punishment aspect is not at all given great thrust here. My previous speaker has pointed out that the preventive aspect is very much in this Bill. I am rather surprised that my friend on the other side has not fully appreciated the different aspects of this Bill. I will come to that Point later. I am very happy to say that one of the most salient features of this Bill is that almost every clause of this Bill which relates to the juveniles delinquents' has a touch of material affection. I may point out a few clauses. For example, clause 9 (3) states: "this Act shall not only provide the juvenile with accommodation, maintenance and facilities for education vocational training and rehabilitation, but also provide him with facilities for the development of his character and abilities and give him necessary training for protecting himself against moral danger exploitation.....". So that he may be converted or changed into a useful boy in future. That shows the parental care taken in this legislation.

There is a distinction between Clauses 9, 10 and 11, which has not been correctly understood by the previous speaker. Clause 9 clearly says that it is meant for 'neglected juveniles'. Neglected juvenile' is different from 'delinquent juvenile'. The home proposed to be established under Clause 9 is 'juvenile home' for 'neglected juveniles' whereas Clause 10 speaks of 'special homes for delinquent juveniles' and 11 refers to 'observation home for the temporary reception of juveniles during the pendency of any inquiry regarding them'. These are three categories and a clear distinction has been made. These three homes are meant to three different situations.

Clause 12 is an outstanding one; it deals with after-care organisations. This is for the purposed of taking care of juveniles after they leave juvenile homes or special homes and for the purpose of enabling them to lead an honest, industrious and useful life, so that they do not remain an liabilities in future. Therefore, every care has been taken to change the child and make him a good and useful citizen in future.

Clause 17 shows that every minute detail has been taken care of by this Bill. Clause 17 deals with 'uncontrollable juvenile'. There are many cases where even parents are not able to discipline their own children or they lose control over their children. Personally I know a number of such cases: in certain families when the father deserts his wife or when the matter becomes a widow the mother becomes a widow the mother becomes too weak to look after her children and most of the boys become indisciplined. I remember a case where a widow come to me and recommended that her son be sent to jail, but there was no provision for that. I am very happy that in this Bill this aspect of uncontrollable juveniles has been well taken care of. That is, if there is a case where even the parents are not able to control their children or discipline them or to give them good life, here is a Clause which provides the occasion for such children to be brought to these homes where they can be taken care of.

Therefore, I wholeheartedly support this Bill. But I have only one concern which I want to express. It is one thing to pass a Bill. But what is the guarantee that it will be implemented in the States? Here I will plead with the Minister to see that it is properly implemented. In every Clause it is said, "The State Government may, by rules, provide for the management..." That means, Government also 'may not'. There should be a compelling clause and strict directions should be given to the States to implement this legislation. There should be a clause to ensure that, after this legislation is passed, within a reasonable period, every State will come forward with suitable legislation or rules so that these homes are established and maintained properly and the care that is sought to be given under this Bill is actually given to the children.

Now I would like to make one more point regarding funds. Clause 52 reads :

"(1) The State Government may create a Fund under such name as it thinks fit for the welfare and rehabilitation of the juveniles dealt with under this Act.

"(2) There shall be credited to the Fund such voluntary donations, contributions..." etc., etc.

Voluntary donations can also be received. But there is no provision as to how the Central Government will be providing funds. If a matching grant is given by the Government of India, it will give an impetus to the States to implement the scheme.

I plead that sufficient funds from the Government of India may be provided to the States. From experience I may say that the Central Government would not shirk its responsibility and I feel that its responsibility would not cases with the passing of this Bill. I hope sufficient funds will be provided to the States so that the very high ideals enshrined in this Bill will really benefit several lakhs of children of this country who are either neglected or who have become delinquent and who are now a liability to this nation. I hope they will be trained and converted to be useful citizens of this country so that the guarantee given under the Constitution will also be achieved.

With these words I give my whole-hearted support to this Bill.

**SHRI SHANTARAM NAIK (Panaji) :**  
Mr. Chairman Sir : At the outset I congratulate the Hon. Minister for bringing this legislation on the even of the Children's Day that will be coming very soon—the birth anniversary of Pundit Jawaharlal Nehru who loved children very much.

[*Translation*]

When we ask ourselves as to how our nation should be, how our nation will be ? As our children are.

[*English*]

As you say, the future of our children will decide the destiny of our nation. It has been said by our elders also. I remember a patriotic song in which it has been said that :

*Ham laye hain toofan se kishti nikal ke,  
Is desh ko rakhna mere bachho sambhal ke.*

That is the message that our children have to protect and blossom this country.

The Hon. Minister has provided certain things viz., the Board, Juvenile Courts and Special Homes, etc. Let me see Clause 4(2) which provides :

"A Board shall consist of a Chairman such other Members as the State Government thinks fit to appoint of whom not less than one shall be a woman ;..."

May I ask here how these powers are vested with the State Governments to do it as they think fit ? If we are creating or establishing a Board, the entire picture of the Board should be there in the Act itself. At the most, a few minor things can be left to the State Governments. If we allow the State Governments to appoint such members as they think fit, without giving them any guidelines in the main section, then there is a likelihood that each state will create or establish Boards in their own fashion and there will be no uniformity which we would very much like to have.

The same is the case with the Juvenile Courts. Clause 5(2) says :

"A Juvenile Court shall consist of such number of Metropolitan Magistrates of Judicial Magistrates of the first class, as the case may be, forming a Bench as the State Government thinks fit to appoint'....."

What should be the number of judges of the Juvenile Courts ? It is the Act which should lay down this. When we put the number, we get a clear-cut idea as to what

[Shri Shantaram Naik]

the Court is. I don't think this should be fixed by the State Governments or we should have clearly authorised the State Governments to fix this number.

Clause 9(4) leaves the entire management of Juvenile Courts to the State Governments. It says :

"The State Government may, by rules made under this Act, provide for the management of juvenile homes, including the standards and the nature of services to be maintained by them and the circumstances under which, and the manner in which, the Certification of a Juvenile home may be granted or withdrawn".

My complaint is that we leave most of these aspects to the State Governments. I wish that we should provide the major things here. The same thing is with regard to special homes. Now there is a juvenile home and we have left both the things to the State Government to decide. Therefore, in this Act we do not know what is the exact distinction between special home and juvenile home because we have empowered the State Governments to frame rules for the purpose. Therefore the main Act does not give that distinction. A broad outline is given which makes a small distinction only. Further there is an observation home and the rules for the observation home will be framed by the State Government. An observation home is that home where juvenile will be kept pending the inquiry against him.

Now, Sir, are we really going to fund these things? I suggest to have one type of home where we can provide all the services. Are we financially in a position to have all types of homes in all the States of the country after execution of this Act? If not, then simply passing this Act and creating different types of homes will not be of much use. When we have ample funds then we may increase but for the present we may have only one type of home where we have all the services for the juvenile delinquents.

Sir, there is a good provision in Clause 14 which says :

"If a person, who in the opinion of the police officer or the authorised person or organisation is a neglected juvenile, has a parent or guardian who has the actual charge of, or control over the juvenile...".

then that parent can be asked to produce juvenile for the inquiry. Now, if they do not produce what is the provision. I do not find any provision whereby we can compel them to produce a juvenile delinquent. The Board has been given the power to get a juvenile produced before it. The police officer cannot punish for non-production, Police officer have powers under CrPC but here the question is of Board's powers. If they are not produced before the Board what are they going to do? Therefore, I suggest that there must be some sort of deterrent that if the parents refuse to produce the juvenile before the Board there is some punishment.

Another point is that when this Act will come into force, I am sure, most of the States will not establish the Board unless you are after them. They may simply ask the District Magistrate to act as juvenile court and finish with it. This is what is done normally. So it must be made mandatory that a juvenile court is established and the State Government is not allowed to vest the powers in the authorities already existing otherwise this entire legislation will be a futile one.

Lastly I would like to say that you have made a fairly good provision for juveniles. Therefore, if they commit an offence we are taking it lightly and providing for admonition, etc. Now there may be a tendency among hardened criminals to use juveniles only in the criminal acts. They may push forward only juvenile so that they come under this Act and they themselves may go scot free. We must see that juveniles are not used by the hardened criminals so that this Act does not get indirectly vitiated.

DR. SUDHIR ROY (Burdwan) : Mr. Chairman, Sir, the intention of the Bill is appreciable because it seeks to lay down a uniform legal framework for juvenile justice in the country so as to ensure that no child

under any circumstances is lodged in jail or police lock-up. It also seeks to provide for a specialised approach towards the prevention and treatment of juvenile delinquency.

Further, it tries to have an integrated approach and spell out the machinery and infrastructure required for the care, protection, treatment, development and rehabilitation of various categories of children coming within the purview of the juvenile justice system.

But our apprehension is that this law would be followed more in breach rather than in observance. This is because though various legislations were passed during the last few years, yet what is the effect? Let us look at the Anti-Dowry Act. The number of dowry deaths is increasing every year. Therefore, mere law cannot change the society. The hon. Minister has said that the children are our treasure. That children are the treasure of the country, no one can deny that, but what is the fate of the Indian children. According to UNO statistics, there are 52 million child labourers throughout the world and out of these 52 million, 17 million child labourers are in India. A sizeable section of our children do not get even a two square meal a day. Many of them are compelled to earn their own livelihood at the age of six or seven. Newspaper reports have established the fact that thousands of young children are working in the carpet weaving factories at Mirzapur and thousands of them between the age of six and fourteen are working in the firework factories at Shivakasi. This is the situation. Even the children are compelled to beg; their operators employ these young children for begging in the big towns and cities. Even young women are compelled to lead a life of shame and they are pushed to red light areas. That is the real situation in India. What is, therefore, required is an integrated approach and creation of social awareness.

In order to do away with juvenile delinquency what is required is compulsory schooling for children below the age of fourteen. There is a directive on behalf of the framers of the Constitution for compulsory schooling of children below the age of fourteen. We, therefore, demand that the children should be given compulsory

schooling. Not only that, they should be provided with free uniform mid-day meals and there should also be ample games and there should also be ample games and sports opportunities.

Let us have a look at what happened at the recently concluded games at Seoul. We Indians cut a very sorry figure there. But as we read in the newspapers, South Korea some years ago selected one lakh young men and women and gave them intensive training. The number was further reduced to five thousand on the basis of their performance and further training was given to them. They could thus achieve wonderful results at those games. But as against this, there does not seem to be any will on the part of our Government.

In view of all this, we apprehend that after this legislation is passed, the Centre will pass on the blame on the States and say that in spite of the Centre having passed such a good legislation, they are doing nothing. We find that it is the State Governments which have to implement the provisions of the Bill, but where are the resources with the State Governments. The Central Government and its policy, have turned the State Governments into poor municipalities. The State Government always suffer from financial stringency. How will they run juvenile and after-care homes etc. All this requires money. Therefore, the intention of the Bill or the intention of the Central Government would have been better fulfilled if they had allotted some money for the State Governments to carry out the proposed reforms.

In this connection, I would like to quote the achievements of the Government of West Bengal. The Government of West Bengal had accepted the recommendations of the Justice A.N. Mullah Committee, which categorically stated that no juvenile delinquents should be lodged in police lock-ups or in jails. The Government of West Bengal accepted these recommendations fully and they have already implemented them. Not only that, they have also started homes for juvenile delinquents. They have also up homes for destitute girls.

[Dr. Sudhir Roy]

I have already stated that there should be an all out concern for our children. Therefore Government should use the media for creating social awareness among our people. At present, television caters only to cheap consumerism and it caters only to the urban elite class. They show only films on our Prime Minister visiting various States. Through a skillful use of the media, every effort should be made to create national awareness about the plight of our poor children. Propaganda should be made in such a way so that the society becomes aware of its responsibility towards children. For example, the noted film maker Shri Mrinal Sen made a picture named 'Khariz' in which he showed how in a very responsible and conscientious middle class family, a young child labourer dies because of suffocation in the kitchen. He had to live in a closed kitchen and he died there due to suffocation. So, what is needed is creation of social awareness among our people.

Adequate funds also should be earmarked for the all-round development of children. Emphasis should be laid on compulsory schooling of all children. In spite of so much hullabaloo about the New National Educational Policy, we find in the Educational Policy that the Centre have entrusted the task of implementation of compulsory primary and secondary education to the State Governments only.

With these words I conclude.

[Translation]

SHRI GIRDHARI LAL VYAS (Bhilwara) : Mr. Chairman, Sir, I wholeheartedly support the Juvenile Justice Bill, 1986 introduced by the hon. Minister. This is a very important Bill and it should have been moved much earlier. Anyway, it is better late than never, and the Bill has been moved after a detailed study of all the aspects of the issue.

Today, the children in this country are being exploited. They are exploited by the smugglers, gangs of thieves, dacoits, narcotics consumers and dealers and other. These

people slowly turn them into hardcore offenders and this Bill has been moved to curb this evil. When due to lack of proper parental care or because of bad habits of the parents, the children go out of control, it becomes essential for the Government to make some arrangements for their reform. This Bill has been brought to serve the same purpose ; hence it is a welcome step. The Government has tried to improve the situation by keeping all aspects in mind. The way you have made arrangements to uplift the poor through every Point of the 20-Point Programme, you have undertaken this task also in your hand. Those who live below the poverty line are not in a position to bring up their children properly. (Interruptions)

If you interrupt me in this manner, I will start speaking on Marxism and communism instead of Juvenile Justice. (Interruptions)

Mr. Chairman, Sir, these people deliberately provoke us and even then want us not to say any thing against them. They are no less responsible for turning children into juvenile delinquents.

SHRI HARISH RAWAT : They corrupt them mentally.

SHRI GIRDHARI LAL VYAS : They not only corrupt their minds, but also make them corrupt in all other ways. You may be aware that the C.P.I.(M) workers train them in fencing, and wielding lathis. Now those very things are bothering you and putting you in difficulty. This is the country of Mahatma Gandhi and here everything functions smoothly only under peaceful and non-violent conditions. Such action on your part will hinder the proper functioning of the system. Therefore, leave that path and come to the path of peace and non-violence so that present problems, which have been created by you, could be solved.

(Interruptions)

[English]

Sir, in this law under section 41 certain Penal clauses has been provided :

- Punishment for cruelty to juvenile.*
- Employment of juveniles for begging.*
- Penalty for giving intoxicating liquor or psychotropic substance to a juvenile.*
- Exploitation of juvenile employees.*

[Translation]

Under these penal clauses, there are no provisions, by which the juveniles could be rescued from the clutches of the criminals. Today, smuggling is a major activity in all the border areas, which include the States of Punjab, Rajasthan, Gujarat, Kashmir, West Bengal, Tripura and the smugglers use the juveniles on large scale for such purposes. Do you have any means by which you could free them from their clutches? It will be very difficult for you to do so, because, they have an empire of their own, where neither your police nor any of your other officials can enter. This is a very serious problem, yet there are no remedies available to rescue the children from them. Such people are mostly involved in the liquor and narcotics business.

You might have noticed that even in Delhi, narcotics are supplied through small children. Similarly, in Calcutta, Bombay and other metropolitan cities children are exploited for this purpose. What steps have been taken to stop this menace? These people are very powerful and goods worth crores of rupees are smuggled. Have you posted some special police force or police officers so that those youngsters could be rescued. Liquor lobby is also very powerful. People producing and supplying illicit liquor also exploit the juveniles. Pick-pocketing is a profession in which small children are trained and made to pick pockets. This is also another racket in which these people pocket all the money that they get by such methods. You have to see as to how you can rescue these small children from their clutches? As hon. Shri Reddy has just now mentioned, though you have made the provisions, these will be more beneficial to the thieves, dacoits, smugglers and all other types

of criminals. When these juvenile delinquents are released for their good character after they have been kept in Reformatory Homes for their offences like theft, dacoity and smuggling, they go back to their crime dens once again. What arrangements have been made for providing care to them after their reformation and release? As in the case of Family Planning and other programmes, in which deaths occur due to the lack of post-operation facilities, in the case of these juvenile delinquents also, the same situation prevails. Hence, post-reformation care should be provided for and it should be carefully monitored. Although you have provided for such a care of these delinquents, but what are the details in this regard?

This is not an ordinary programme. You have just added a clause to it. Will it serve the purpose of caring after their release. It is very essential because when a child, who has been in the Reformatory, is released then these people have a hawk-eye on him. They know as to when such children are being released. Therefore, at any time they can catch them. Unless these children get protection, they will go back to them. You should make such arrangements that they can lead a normal life.....(Interruptions) I was saying that you have given voting powers to the Board. These smugglers have a vast jurisdiction. They have sources and resources, even more than what the Government has. After giving the voting powers the things might not function properly. You should make such provisions according to which the Magistrate may exercise full powers in taking any decision about the juveniles. The power of voting given can be misused.

I don't know, whether it is right or wrong but you should make such provisions regarding the voting power that it is not misused, the people who have the power of money may not misuse it. You have brought this legislation for the security and reformation of the children which is a good thing. My suggestion in this regard is that regarding the Board and its constitution and members, you should take such decisions that the affluent people are able to misuse it and juvenile remain reformed.

[Shri Girdhari Lal Vyas]

A lot of Homes are being run today. Such as Nari Niketans which are run by the State Governments. There are lot of bunglings in these Homes and the suprintendent and the employees commit atrocities on the inmates. How will you stop all this? Will the Homes you are going to start under this Bill, be run by the State Governments? The manner in which various Nari Niketans are being run by the State Governments is know to all. So, in the prevailing circumstances how these Homes will be administered and how the children will be reformed and how the atrocities on them will be stopped? There are a lot of problems which need your consideration, you should give them a serious thought. Unless you take decisions to streamline the system and the Administration, they cannot work properly. Just now Dr. Phulrenu Guha said that, 'Prevention is better than cure'. So, you should first make arrangements for prevention so that in future the children may not turn into criminals. This is the problem of the whole country. You are running a programme on large scale to remove the poverty. On the same lines, you will have to undertake a bigger programme so that the children are not spoiled. Then only things will improve. Merely passing the Bill will not set the things right. You will have to face a lot of problems while implementing this legislation. You have to overcome them. You have not made any provision regarding the appointment of the officials in it. Unless the officials are appointed according to rules, this Bill cannot be implemented in a right manner. There is no doubt that this legislation is very good but you will have to take initiatives to implement it. Then only the nation would be benefited and grow stronger. With these words, I strongly support this Bill and conclude.

[English]

SHRI SALAHUDDIN (Godda): Mr. Chairman, the credit goes to the Welfare Minister of India who has come forward with a very comprehensive and progressive Bill for the removal of some social evils of the society. I think and I hope this will be a water-shed in the history of social legislation of India. Some of the clauses

mentioned in the Bill are very hitting, very pinching, and they will surely be the adding factor for the removal of some social evils.

[Translation]

Now, I want to say something regarding this Bill. In this Bill, the 'Age of Juvenile' has been fixed as 16 or 17 or 18 years and to my mind this is taken as most complicated age of a child which affects his whole life. If the child gets spoiled at this age, then he becomes a burden on the society and the country but if he is reformed then he does a lot for his country. The child needs special attention at this age. This age plays very important role in spoiling or making a man's life. It becomes our duty to see that all the neglected children and beggars should not be neglected or hated. Instead; we should try to reform them. With this aim, the provisions have been included in this Bill which have been framed after careful consideration are in everybody's interest. This contention is wrong that these provisions have been included in this Bill hurriedly. I have studied all the provisions in detail and I feel that from the legal point of view, these have been properly worded and included in the Bill after due consideration. An hon. Member was speaking just now. I do not agree with him at all and his statement is absolutely wrong. Now I want to draw your attention towards some of the features of this Bill.

After reading the various provisions of this Bill I feel that they might clash with the provisions of the Constitution. For instance, it is written at one place that :

[English]

Provided that no juvenile shall be kept with his parent or guardian if, in the opinion of the Board, such parent or guardian is unfit or unable to exercise or does not exercise proper care and control over the juvenile.

[Translation]

I feel that in future, it might come in confrontation with the provisions of the Constitution at some place because a father

has a right over his son which nobody can snatch. In our country, the father and the son have a relation which cannot be severed in any situation. At another place in this Bill, it is written that :

[English]

Provided that no juvenile shall be kept with his parent or guardian if, in the opinion of the Board, such parent or guardian is unfit or unable to exercise or does not exercise proper care and control over the juvenile.

[Translation]

This provision may also clash with some Article of the Constitution in due course. Apart from this, there are many clauses in this Bill on the basis of which there can be, or atleast there is a possibility of, a confrontation between the Juvenile Court and the Board. Leaving the right of decision entirely to the Court or the Board may later on lead to various complications and confrontation between them. What should be responsibility of the Board, that is to be seen because there is a possibility of clash between the two in due course.

At the end, I want to draw your attention towards another provision in which it is written that :

[English]

Every juvenile home to which a neglected juvenile is sent under this Act shall not only provide the juvenile with accommodation, maintenance and facilities for education vocational training and rehabilitation, but also provide him with facilities and give him necessary training protecting himself against moral danger or exploitation and shall also perform such other functions as may be prescribed to ensure all round growth and development of his personality.

[Translation]

To my mind, it has not been made as to what will you do after imparting training to him ? Where will you keep him?

It is true that you will first bring such a child to Home, give training to him, reform him but you have not made clear as to what will be done for his future. Therefore, I request the hon. Minister to make this provision clear as to what would happen to them after training in Homes. I do not find any answers to these points in this Bill but as a whole this Bill is very progressive and to my mind it has to play an important role in the social history of India.

With these words, I conclude.

[English]

SHRI THAMPAN THOMAS (Mavelikara) : There is no doubt that this Bill is a step forward. But I would urge the hon. Minister to prove her bonafides by making in investigation into the subject i.e. to make enquiry into the number of juvenile children both neglected juvenile and delinquent juvenile in this country. I feel that their number is quite alarming. Our children are not given proper care. They are neglected and some of them are delinquent also. Recently a story has come in the Malayalam papers that a girl by the name, Ramla, was taken away 14 years ago. Her eyes were speared with iron rods and she was made blind. After 14 years, she came back home but she could not see her mother. She was used for begging. That sad story was published in the papers in my place. This is happening not only in Alleppy but everywhere in our country. Those who can get hold of the children, snatch away them, incapacitate them and make use of them for begging. If such activities are not curbed and children are not taken care of properly, our future will be bleak.

We have to bring justice wherein children will be looked after and sufficient care is taken and opportunities are provided to them as is provided to any other child in this country. I feel that justice cannot be done without doing this. Of course, this Children Act of 1960 is being changed and a new Bill in a consolidated form has been brought. To that extent I welcome it. But if you are leaving it as a State subject and at the mercy of police officers and bureaucracy, I do not think you will be able to

[Shri Thampan Thomas]

do justice to children. You will have to involve voluntary organisations in a very big way. Of course, that is there in the Bill.

There are certain orphanages which are run by Christian missionaries and others in a very proper manner. But no care is given by the Government to help them and encourage them.

I have an experience. Some people had approached me as a practising lawyer to appear for them in a court to get an order enabling them to adopt exphans as their own children. I found that there was no law enabling them to adopt children in India. I made enquiries through the embassy about the living status of the persons who wanted to adopt. I found that they were rich and the children were going to acquire immense wealth in foreign countries. But there was no law in this country to adopt them. Then I had to take shelter under the Guardian and Wardship Act to get the proposing parents to adopt them. This happened 15 years back. Still there is no law in the country for adoption of children except the Hindu Adoption Act for the purposes of performing religious rites. I have my own experience about this. So, I would suggest that there should be an Act which will enable these people who are willing to take and up those children at their own, to do so. Permit them to do so. The law in that respect should be relaxed. If the police and others are going to look after these children who are in the streets, how are they going to be looked after? There are two broad aspects. One is neglected children and the other is delinquent children. These are two separate categories. Most of the children in our country, with all respect I submit, are neglected because of the circumstances. There are about six million children employed in this country for odd jobs. If you go to Sivakasi in Tamil Nadu, you will see that small children are doing the work of match manufacturing and like that. Everywhere children are being used for getting something for the family. I had an occasion recently to go to the ILO conference where one of the officers of the Government of India also came. She was explaining the

experiences she had in Jaipur, about a family consisting of four or five children. Whatever the parents were getting after hard work, they were not able to food the children in an equal manner with that. They fixed up food for the oldest children on the first day when the other children were looking at the oldest child who was taking the food. On the second day, the second child will get the food and the other children will be looking at him, and on the third day the third child will get the food. This is the condition. So, how will you look after the children in this country? These children who are born with a silver spoon in their mouth have get everything in abundance and they can have all the facilities to grow and come up. But what is the condition of these who are born in poor families? It is not the fault of that child. Because of the providence he is born in a poor family, but you are not doing justice to him. If you look at these children, they are national property and for bringing them up, proper machinery will have to be there. So, I say that there should be a proper evaluation of the situation in this country, of the children who are suffering without opportunities, without food, without proper amenities for their development, without proper opportunities for study. They have to assess the situation and make a drastic law about them. This law is intended only to give them the minium requirements which are to be given under the United Nations Charter and not anything more than that. Just to comply with the formalities and to justify their selves in the international forum they are amending the law. My submission is that it is not sufficient. In the interest of this country, for the future of this country, in a developing nation, sufficient opportunities will have to be given and I say that every child should be looked after as equal in the nation's eyes.

I am not going into the details. Of course the delinquent...*(Interruptions)*

SHRI A. CHARLES : Kerala Government is never thinking about them.

SHRI THAMPAN THOMAS : Whether it is Janata Government or Congress, that is not the problem. Here, the problem is that of the nation. Whether it is Janata or CPI

or CPI(M) or Congress, I am least bothered about that. I would like to submit that this is in the interest of the nation. You are seeing the children loitering at the railway stations. Can you have an assessment of the children who are loitering in this city of Delhi where we are sitting, and have you get a programme to rehabilitate them? Have you get a programme to give them proper job opportunities or to give them opportunities for study? Unfortunately, they are not bothered about them. They are only bothered about themselves and they are only bothered about the power. They want to make all sorts of political gains to continue in power and are not interested in these poor children. They are not interested in the future of the nation but we in the Opposition are concerned about the children. We in the Opposition are concerned about the country and we criticise their programme from that angle only. At least they should appreciate that. So, my submission is that there are two categories—the neglected children and the delinquent children. I will submit one thing about the delinquent children and their dealings. The Government is approaching this problem in a haphazard way. I know the case of after care home. With great he situation. I have to say that most of after care homes in this country are indulging in supplying girls. The poor girls who in one way or the other have gone astray, are put in after care home. But the administration of this homes instead of looking after their interests, supplies girls. Most of the after care homes are doing like this.

At least in the matter of delinquent children you should have a scientific approach. You should have necessary methods to evaluate them and to correct them and make them as a good citizen of this country. If such an approach is taken I shall be very happy. I welcome this Bill with a hope that this will be laborated and in future a better form will be brought in and proper assessment will also be made of the children who require protection.

[*Translation*]

SHRI VIRDHI CHANDER JAIN (Barmer): Mr. Chairman Sir, I rise to support the Juvenile Justice Bill, 1986 that

has been introduced in the House. The future of country's children and their development and progress depends on their population.

Today our biggest problem is population explosion. It is acquiring serious dimension. It is as a consequence of this that we are forced to discuss this Bill. If the Government does not take any concrete steps in this regard, such problems will persist.

17.12 hrs.

[MR. DEPUTY SPEAKER *In the chair*]

Poverty is the main reason for increase in population and it is because of this that these problems have arisen. It is very essential to resolve them. The steps that have been taken in this regard through this Bill are indeed welcome steps. We have to depend primarily on voluntary organisations to implement the laws that are framed in this regard. We have a bitter experience about functioning of these voluntary organisation. 'Nari Niketans' and 'Bal Niketans' are being run by these organisations at a number of places. It has been observed that children are maltreated and tortured even at these places. It is, therefore, essential that welfare schemes are formulated and welfare institutions are set up for these children. If these institutions do not serve the cause, we will not be able to achieve our objectives. The Centre as well as the State Governments should bear responsibility on this account. Centre has not taken any responsibility to provide funds which it should take. The Bill has a provision to set up Special Homes and After-Care Organisations but unless the Centre and the State Governments do not share the responsibility, these Homes cannot be run successfully.

I would like to cite an example to highlight how the juvenile offenders have to suffer. A juvenile offender was apprehended in Barmer on the charge of theft. As there was no arrangement to keep him there, he was sent to Jodhpur. He was reformed there. His parents and his family members had to face lot of inconvenience as they had to travel all the way to Jodhpur, every now

[Shri Virdhi Chander Jain]

and then, to pursue the case. I would, therefore, request the Government to provide such Homes in places where there are courts. In the absence of such an arrangement, the juvenile delinquents have to be sent to far off places, thereby causing great inconvenience to their kith and kin and sufferings to those offenders.

Clauses 41, 42, 43 and 44 of the Bill provide punishment for special offences in respect of juveniles. I would like that the punishment for such offences should be enhanced because influential persons who try to corrupt these young minds should get the severest punishment. I fully agree with Shri Vyas that if an influential person tries to spoil the children by getting them addicted to narcotics and other drugs, he should be punished. These people can be apprehended under the charge of abetment. There should be special and effective provisions to deal sternly with those who try to spoil the future of children because they are doing a great disservice to the society. These children should be developed constructively. Instead, they want to destroy them. Therefore, there is need to take stern and effective steps against such elements. This is a social legislation and such laws are not enforced in the desired manner. Such laws cannot be effectively enforced unless there is social consciousness. I fully agree with the hon. Member of the Opposition who said that even today the laws in respect of juvenile offences are not properly enforced. There are number of such laws which have social relevance. Not only these are not enforced, these are violated on the contrary. The reason being that these laws are implemented only upto extent to which the society is conscious. Unless the people cooperate fully, these laws cannot be enforced properly. The need of the hour is that social workers should set up voluntary organisations which can help in improving the lot of children. It is a well known principle that juvenile delinquents are not punished the way hardened criminals are. The need to reform them has been emphasized time and again and therefore efforts should be made by the Government to take keen interest in building special Homes or hostels for them. This can be achieved only if the Government takes serious interest in these schemes.

I would like to add here that the Boards and Courts that are envisaged in this Bill should be entrusted separate functions. I have gone through this Bill and have found out that there is no clear demarcation of functions. The Welfare Boards and Juvenile Courts should have separate functions and these should not be mixed up.

Besides this, I would that the States should effectively implement these provisions. The word 'may' has been in clause 9, 10 and 11 of the Bill. Therefore, it will depend on the State Governments to abide by it or not. The Centre will not be able to exert any pressure on the States in this regard. Therefore, I feel that we should reconsider these provisions so that they could be effectively enforced. Only then the purpose of the Bill will be served.

With these words I support the Bill.

[English]

SHRI I. RAMA RAI (Kasargod) : Mr. Deputy-Speaker, Sir, I rise to welcome the Juvenile Justice Bill of 1986. I want to point out some of the reasons why the delinquent juveniles are formed. The neglected children usually become delinquent juveniles. That is what, we are just talking here. I think, if you take up a sort of precautionary measure, you can put an end to these damages done by a set of youngsters who are going to be our future generation. Children, especially the illegitimate children and the children born in prostitution house or some other illegal places are usually brought up with an inferiority complex. They cannot live at par with other children of their age group; they cannot have the same living standard with the other children. When you go to cities like Bombay, Delhi and other places, you can see 5-star hotels coming up and nearby you can see hundreds of slums of huts also existing. When these children in the slums look at the 5-star hotel and occupants of that hotel, they see a different life style of children in the same age-group and they crave for a better living condition, better education and everything else.

As some hon. Members pointed out, the main reason for the creation of delinquent juveniles is exodus, or a sort of human beings coming all the way from villages to the cities in search of jobs. That is what we are seeing. In places like Bombay, I can say openly that we can get labour cheaper than in our own villages. This is the condition. One of the friends was pointing out that there were 7 million children in child labour. It is not 7 million; it is 17 million children in India who are in child labour. That is what we read or hear. It is one crore and 70 lakh children subject to correction. There is so much of child labour. Some children commit crimes, sometimes as a hobby. Stomach ache with some people is due to over-eating and with some people, it is due to starvation. Even the rich peoples' children are committing crimes as a hobby. But the majority of children in India, all the delinquent juveniles, are due to starvation, we can say it absolutely. I want to raise one point p.16 Chapter IV. I am not a lawyer but lawyers have touched in detail the Clause by Clause aspect of the Bill. I was searching for the punishment, for the Abettors. But those Clauses are very mildly worded and even the punishment is very mild.

"44. Whoever ostensibly procures a juvenile for the purpose of any employment and withholds the earnings of the juvenile or uses such earnings for his own purposes shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine."

Only such small things are there. Children are used for bootlegging in the field of prostitution, smuggling, narcotics trade and for many other crimes. Behind most of the crimes, there are always adult people or gangs who are encouraging the children to commit all these crimes and these people who are abettors must be booked and punished very severely. Usually, these delinquent juveniles are really intelligent children. Sometimes they are intelligent perverts. These intelligent children are cheated and their zeal is made use for all anti-social acts and some other people get the benefit by using these small and innocent children. Many of our friends have touched the other aspects of the Bill. I personally

request the Government to look after the orphanages already run by social organisations to improve their condition, their number and their capacity to have more children in their grip.

About the education policy, we are struggling, of course. We are trying to improve the condition of the future generation and as our friend pointed out, this Government is taking bold steps to improve the living standards of the millions of poor people in this country and I hope we will succeed by various measures of this sort, in getting at least enough food, clothing and shelter for the future generation at least.

I welcome this Bill with these few words.

SHRIMATI GEETA MUKHERJEE (Panskura) : If I am to congratulate my dear sister, the Minister for Welfare, I would congratulate her for a beautiful piece of wishful thinking. This is what I call this Bill because really if we go by the present situation, then, it is an uphill task. Incidentally, there was a brief interlude between a Janata Member and the Members on the Treasury Benches, with what the Janata Government did and what the Congress Government did etc. Then our Janata friend says it is not a question of the Government. It is a question of the nation. If I may say here with humility, may I say, it is really a problem of the system, not of the nation? It is the system of capitalism which endangers this nation. Go to America. How many delinquents? But it is absolutely an accident. It is a different thing in Soviet Union. The facts speak for themselves. That is why I was telling that its objectives are laudable. But I am afraid with the provisions made, they are bound to turn out to be wishful thinking—not qualitatively in quantitative sense also here and there it may improve. Just I was going through the situation. Many figures have been given. I would just like to quote one thing. In the course of 1981—83, according to the latest statistics as was published by the Hindustan Times, the juvenile destitution all over the country has increased by 40.84 per cent. It is within a period of two years. Neglected juveniles have increased by 76 per cent, within two years. Victimized juveniles have increased to 32.30 per cent. Juvenile

[Shrimati Geeta Mukherjee]

delinquents have increased by 59 per cent. This is all within the course of two years. Such is the magnitude. Millions of such people are there. What is the addition? Within two years, this is the addition. That being the situation, it is not a question of taking a mental attitude only though I do fully agree that absence of any mental attitude or cruel mental attitude definitely is worse than a benevolent mental attitude. That is at the best of this Bill. Everybody has pointed out certain things. I can read out the Financial Memorandum. After saying this, how many things are to be made? Courts, Boards, Homes and then educational system, Psychiatry, preventive homes are to be provided all over the country. In the Financial Memorandum it has been stated that the expenditure incurred on this by the States will be met out of their respective consolidated funds and the expenditure incurred in respect of Union Territories will be met from the Consolidated Fund of the Union Government. It is taking Rs. 1 crore and 30 lakhs in the Union Territories. Delhi is one of the worst affected cities. Even for Delhi, can you imagine this sum can do any effective service really with all this infrastructure, let alone the States which have hardly anything to rely on to finance a scheme of such a vast nature? With all my sympathy, I feel that this is more an eye-wash.

I would like to point out only one or two things. There are Board and Courts. They are already in existence. What is the expectation of the Minister with regard to the family courts for us which was passed some years ago because of a big agitation. How far we have advanced? It seems to me that it is not a far advancement. In how many more states these Courts and Boards are to be set up? In my State, of course, they are there. What is the new thing that you are proposing? It seems to me that nothing new is being proposed, but for the uniformity. I would suggest that if you are going in for wishful thinking, then you go in for more. What kind of personnel should be there in the court, what kind of personnel should be there on the Board—go in for all that, and if anybody wants to do anything, let him read your 30-page or 40-page Gita; go in for all that. Similarly, police. Who will deal with this? Here a

special kind of training is necessary. All the police personnel dealing with everything under the Sun does not bring in any specialisation. For dealing with this kind of social offences, some training is required. We do agree that this has a social origin. My point is whether we can seriously think of a special orientation, subject, of course, to this system. However much orientation you may make, it is in the capitalist system. In Bengali we say :

*"Parile Bherar Sringe Hira Bhang dhar"*

Whatever you may do, the diamond will be absolutely useless when it is harmed by the capitalist system. Even then, under the circumstance, since you are thinking of this, why not provide for a specialised training, a specialised cadre all along the line? If you want to go in for something new, then only making all kinds of platitudes will not do. Whatever machinery you have today, what is the improvement that you want to make there has to be specifically stated. Otherwise, as I said, this will be just like a Gita. Excepting in a very general way, this Bill is not going very far. In a general way, many things have been stated. I do not know what will happen. Take, for example, narcotics. It has become a very big problem, and the youth are falling a prey to this narcotic thing in a galloping way. All over the country, there is not even one home which can take care of the narcotic-affected victims. You want to catch those who are offering the narcotics. In Delhi, you go to some hill—I have forgotten the name at the moment; there, the narcotic trade goes on. How many are being caught today? There is a provision for catching them. But are they being caught? I do not think, making another provision for punishing those who will offer narcotic and making a statement that they will be given such and such term of imprisonment will improve the situation at all. Here itself a big narcotic trade goes on. Who is catching those people? Nobody is catching them. That is why I again raise the question of making a specific attempt, if possible. There would be many areas for doing that which need to be concretely judged in the light of the existing circumstances. Here, only very general observations have been made. Perhaps, the Minister or the Department was in a hurry to bring this; perhaps, they were under compulsion,

because of the international problem. That is why, perhaps, this study has not been done as it should be done. Naturally, I have nothing to oppose the Bill, but, as I have already said, this will be one of the beautiful pieces of wishful thinking without actually producing much. If you want to avoid that situation, then a different kind of study into the problem has to be made in order to achieve whatever limited thing can be achieved in the present capitalist system. I am sure, the scope is very limited. Even then, a study like that could, perhaps, have helped better than making a general testatement to the State Governments to do everything under their power to improve the position of the delinquent juveniles.

**SHRI SRIBALLAV PANIGRAHI** (Deogarh) : Mr. Deputy Speaker Sir : I rise to support this Bill which is placed before the House by the Hon. Minister in charge of Social Welfare.

There is nothing to oppose in this Bill. In fact, on the other hand, there are many welcome features in the Bill and it should have been brought even earlier. The Bill has got very laudable objectives which are two-fold one is to bring about a basic uniformity in the implementation of various legislative provisions and the other is to bring about a qualitative improvement in the functioning of the institutions set up under the Children's Act, 1960. Thus, the Bill has two-fold objectives. I whole-heartedly welcome the Bill.

I have some reservations about the implementation of the Bill. After it takes the form of a law, I don't know how effectively it would be implemented in different States. As we have experienced, many Bills that are being passed here, many enactments which we are making here and whose implementation lies in the hands of the States, we find that some of the States are not at all particular or serious about implementing the laws, particularly the social laws.

This is a very beautiful piece of social legislation. In the case of Ante Dowry law, Child Labour Prohibition law, practically we find that they are not being seriously looked into in the field of implementation. I would

request the Hon. Minister through you, to go into the very facts, the very circumstances why the Children's Act 1960, which was hitherto existing, could not be properly implemented in different parts of the country. They have agreed in the statement of objects and reasons that greater attention has to be paid to the children. I would like to know why greater attention could not be paid earlier. It is a known fact that children are our national wealth and much depends on the future of our children. The nation's future and the future of the children are co-related and inter-linked.

Much has been said about various aspects of this Bill earlier and I agree with most of them. Nobody has opposed this, only some suggestions are given here and there for improvement. There are two types of juveniles—one is neglected juveniles and the other is juvenile delinquents. If you go through the very definition of it, at the outset I said that, in the statement of objects and reasons it is mentioned that to bring about a uniformity in the implementation of this law throughout the county, this Bill has been brought forward.

But, Sir, in the definition of juvenile itself there is a difference as regards age of boys and girls. In respect of boys it is 16 years and girls it is 18 years. I would like to know what is the reason for this? Why not uniformity is maintained in their age? The age of boys could be raised from 16 years to 18 years. After all at the age of 18 years only a boy is called a major. When we are talking in terms of uniformity this point could be looked into.

Now, Sir, the question why the children or neglected by the parents. I would like to say that hardly any parent would be willing to abandon their children. It is only extra-ordinary circumstances like poverty which drives the parent to this. I would like to say that even lepers would like to have their children with them. On 31st October last—second death anniversary of Smt. Indira Gandhi—I visited such a 'Bal Niketan' where the abandoned children of lepers were taken care of. At the initial stage they wanted to go back to their leper parents and I also found some such parents did not like to give their children to this

[Shri Sriballav Panigrahi]

home. Naturally it is only extra-ordinary circumstances like poverty, etc. which drive them to this. Children are supposed to be born equal but after birth it is the circumstances favourable and un-favourable which mould the children in different ways.

Sir, I visited another Ashram. Earlier it was said that only Brahmins could learn Sanskrit. There I found that Harijan boys were being brought and they were uttering beautiful shlokas. They are now well-versed in Sanskrit. So it is the teaching and training that really influences.

MR. DEPUTY-SPEAKER : Please conclude.

SHRI SRIBALLAV PANIGRAHI : Sir, a word about implementation. We are not in dearth of good pieces of social laws but what is really wanting is better implementation. Unless it is implemented and monitored properly it may meet the same fate as that of other such laws. Therefore, it is my earnest request to the Minister that immediately after it becomes a law she should take a meeting of the concerned Ministers of State and urge upon them the seriousness of this piece of legislation. It should strictly be monitored from the Centre.

Further, Sir, various States are coming forward with the grievance that even to run their routine matters they do not have funds. The Financial Memorandum says no extra expenditure is involved for its implementation. But I am of the opinion that unless some grants are made available to the States naturally it may not arouse any interest in the States to implement it properly.

Further it is the choice of a proper person who is to remain incharge of these homes. There has been a suggestion initially that we should not have so many homes like special homes, observation homes and juvenile homes etc. If there is only one type of home and it is looked after properly that would be much better. What happens is that unwanted officers are shunted by the State Government to take charge of such institutions. What will they do? They

will not have a heart for it. Unless they have a human approach, they will mismanage things and naturally such laws cannot achieve their desired result. These laws are quite noble in nature.

Further, involvement of right type of voluntary organizations is also a must and they need to be encouraged. There are certain volunteers, social workers who are coming forward to take charge of such institutions. There are also certain institutions which with their own efforts are collecting money and running such institutions. Such organizations should be very carefully located and encouraged by way of financial assistance. There should also be some Government control over them.

Even though the old age pension is a good scheme, but for several months they do not their pension due to the faulty implementation of the relevant law. We have come across several complaints of corruption. Naturally, it is a question of heart. We should choose right type of people, who should take charge of such institutions and that will go a long way in proper implementation of the relevant law.

Then, the juveniles need to be given proper education and training. In that sense, such homes should function like schools. Proper education should be imparted to these children and then they must be rehabilitated suitably. I visited one children home last week. The caretaker was complaining that those students who had passed their graduation were not being rehabilitated with the result that they were not able to leave that home and stand on their own legs. This could very well form a part of the anti-poverty programme and 20-Point economic programme so that the benefits of the scheme could flow to such people in the matter of rehabilitation. Proper rehabilitation after education and training is very important.

Then, much has been said about the penalty for abeters. That should be looked into and the abeters must be dealt with seriously.

With these words, I welcome this Bill. I only once again emphasise that it should be properly implemented in the field and it should not remain only in the statute books.

[*Translation*]

SHRI HARISH RAWAT (Almora): Mr. Deputy Speaker, Sir, I welcome this Bill on two accounts. Firstly, it has tried to remove the shortcomings in the Children Act, 1960 which have been frequently pointed out in this House as well as by those who are engaged in this field. Secondly, by introducing this Bill the hon. Minister has tried to bring uniformity in the various laws prevalent in different States to remove shortcomings in corresponding laws and other State enactments so that the State Governments can also be impressed upon to overcome the shortcomings in respect of reforming the juvenile offenders. I feel that everybody would like to welcome this Bill keeping in view the aforementioned objectives. Although the hon. Minister has expressed her resolve to achieve these objectives, yet we have certain apprehensions because the Centre has left most of the things to the States including its implementation. The Centre is only responsible for making the Act. The Bill provides for setting up of Juvenile Courts, Juvenile Boards, Observation Homes, Special Homes etc. but so far as providing them funds or making allocations in the Budget is concerned the Centre has left this work to the States. More often than not the State Governments complain that in view of limited resources they are not able to discharge their functions properly and if the Centre insists to take up these responsibilities, they may satisfy the Centre on paper but they will not be able to do justice to these schemes. Therefore, the Centre should seriously think over this matter and provide sufficient funds to the States for this purpose. I fully agree with the apprehensions expressed by the opposition that unless the State Governments are provided additional funds, they will not be able to achieve these objectives. The States should be assured before hand that they would be given so much funds for this purpose. If this is not done, the States will pull wool over Centre's eyes by presenting exaggerated figures through statistical jugglery. For example, the states will inform that they have done

such and such thing and will present some figures. For this they may change the names of existing children Homes or change the name of an official and give him additional charge. They may even oppoint the same official to look after the court as well as the Juvenile Board, though he may or may not be aware of child psychology, juvenile reform or may not have worked in this field.

If the State Government intimates that such and such officer, district magistrate or sub-divisional magistrate is a specialist in this field, how will the Centre verify it? What shall be the yardstick to determine these things? If the State Governments are to implement the Bill, how the centre will doubt their intentions? I doubt whether the State Governments will cooperate in realising the objectives with which this Bill has been introduced here. They will merely complete the formalities and present some figures.

The Bill envisages to involve some voluntary agencies in this work. This is a good thing and I know that there are already many voluntary organisations which are working in this direction. They should definitely be encouraged. Mere oral encouragement will not help much. The Boards at State level and other agencies on district level are not financially sound and the Government assistance for them is just negligible. Unless the Government sets up a separate Fund or provides for funds, these voluntary organisations are not going to survive, because even today the people are not as much socially aware to come forward and cooperate wholeheartedly. Unless the Centre or the States help these organisations, they cannot do any concrete work in this direction. I would like that this Bill be passed but at the same time I would also like to request the hon. Minister to make some provision in the Bill so that the voluntary organisations which are working in this field could be assisted. This would enable these organisations to help in reforming the juvenile offenders and also ensure that they are being properly looked after and reformed in such Homes and such other places. Besides this, these organisations should also ensure, among other things, that a child who has once been reformed at any such institution should not enter

[Shri Harish Rawat]

the world of crime again, and the children are saved from exploitation. Children have been exploited in this country for centuries and even today there is no dearth of exploiters. I feel that with this Bill many people will be coming forward and they will get opportunities. Earlier, once the crime was proved the juvenile delinquents were kept in these Remand Homes for a long time but now they will get some assistance from outside, thereby encouraging gangs which are responsible for juvenile delinquency. Therefore, the Government should make some provision so that this could be checked. Besides, it should be ensured that a child who has been reformed once does not enter the world of crime again. The condition of the Boards and Children Homes in the States is pitiable. Madam Minister, you have been the Education Minister in our State and Department of Social Welfare comes under that Ministry and if you have seen the condition of children's Homes in Uttar Pradesh, you may be aware that it is extremely miserable. The grants that they are given are not even sufficient enough to meet the expenses of building maintenance. One can imagine the way they might be looking after the children.

I would like to request that there should be some arrangement in the Children's Homes through which it could be ensured that they are being properly monitored. Beside the Central Government agencies some social workers should also be involved, in this work. This should not be left to Central Government officials alone.

Madam Minister, the Bill has been aptly named as the 'Juvenile Justice Bill' but it is also to be seen that from whom do we want to provide justice to the juveniles. We not

only need to provide justice to them from the exploiters, we have also to find out the reasons behind juvenile delinquency.

I feel that the social milieu is mainly responsible for it. We will have to save them from this environment which encourages them to commit crimes. It has been generally observed that the children of poor families take to these crimes. Therefore, our foremost effort should be to improve the plight of these families. Poverty compels them to commit these crimes.

Shrimati Phulrenu Guha said just now that besides checking the tendency of crime among juveniles, we should pay attention to prevention side also. If we do not improve the financial condition of these families, young children will continue to be induced to take to crimes. Therefore, the main thing is to improve their financial condition.

The main function of this Ministry is to work for the welfare of the society, whether the Government has funds or not. This multifarious work has to be done with limited resources and everyone will extend cooperation to it.

[English]

MR. DEPUTY SPEAKER : The House stands adjourned to reassemble tomorrow at 11.00 A.M.

18.03 hrs.

*The Lok Sabha then adjourned till Eleven of the  
Clock on Thursday, November 6, 1986/  
Kartika 15, 1908 (Saka)*