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THE JUVENILE SYSTEM IN INDIA

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1. INTRODUCTION

The term “juvenile” has been defined under Juvenile Justice Act. This act defines the child as a person who is under the age of 18 years. The main intent of the laws related to juveniles is to give consideration to the unprotected children. This act based on the principle of the reform and rehabilitation rather than punishment.. The system’s intent is not to stigmatized but to give them opportunity to regenerate as a responsible citizen. This act provide the establishment of juvenile justice board and child welfare committees on different grounds for the children who are in conflict of law and conflict of law and the one who are in need of care and protection. The children who are protected under the act are provided with the facilities of counseling, education, healthcare, education, vocational training etc.

2. HISTORY OF THE JUVENILE JUSTICE SYSTEM

In 1850 :The Apprentices Act, 1850 was enacted to provide apprenticeship to the children who are orphaned or neglected by their guardians. Then it was amended in 1867.

In 1891: The Bengal Children Act was enacted and the intent was to establish juvenile courts and probation officers but it was limited to the province of Bengal.

After 1947: After independence, the children act, 1960 was enacted and it provides the establishment of juvenile courts and probation officers in all the states.

In 1986: Juvenile Justice Act was enacted which provide the comprehensive legal framework for the juveniles.

Then due to the compliance with the convention on the rights of child embraced by the general assembly of UN, the JJ act, 1986 was repealed.

After this, JJ Act, 2000 was formed which mandates the 18 years of age for both girls and

boys.

This act was then amended in 2011 which includes the provision for the juveniles which are suffering from diseases like TB, leprosy, mental illness etc. after further amendments, juvenile justice (care and protection for children) act, 2015 came into force on 15th January 2016 which take the accountability of the juveniles which are of 17 years of, have done brutal and heinous crimes and to consider them as criminals¹.

3. WHO IS A JUVENILE?

Juvenile justice (care and protection) act, 2000 defined the term “juvenile” as a person who is under 18 years of age. This act categorized juveniles into two parts which are (a) child in conflict of law and (b) child in need of care and protection. Children in conflict of law are dealt with juvenile justice board and children in need of care and protection are dealt with child welfare committees.

4. KEY INSTITUTIONS OF THE JUVENILE SYSTEM

4.1. JUVENILE BOARD

Section 4 of the juvenile justice (care and protection of children), 2000 states that the state government should establish juvenile board in each district and each board should consist of one judicial magistrate and 2 social worker. And one of the social worker should be a woman. If any child is caught committing a crime then he/she will be placed under the charge of special juvenile police unit(SJPU) and then it is the duty of the police unit to produce the child in front of juvenile board within 24 hours excluding the travel time.

The duties of the juvenile board are:

- a). to conduct the entire process and to investigate the case and to decide whether the child has committed the crime or not
- b). to ensure the availability of the legal aid for the child
- c). to conduct at least one inspection visit to the residential facilities for the children in conflict of law
- d). to conduct regular visits to the jails which are meant for the adults whether there are any children and if found any hen they will be transferred to the observation home. ²

¹ Dr Gurmeet Kaur and Ms Manjula Raghav, *Juvenile Justice System in India: A Critical Analysis*, ISSN NO: 2249-2976, Pramana Research Journal, 1257, 1259-1260,(2019)

² National human rights commission of India, *Juvenile justice (care and protection for children), 2000*, https://nhrc.nic.in/sites/default/files/5-THE%20JUVENILE%20JUSTICE_compressed.pdf

4.2. CHILD WELFARE COMMITTEES

To deal with children with care and protection, every district should have at least child welfare committee. Every committee should consist of one chairman and 4 members. One member should be a woman and other one should be a child expert.

When a child is brought before the committee, the committee has the power to do certain acts:

- a). can send the child to his/her home
- b). can order for investigation by the social worker. And the report of the same should be presented before the committee within 15 days.

After completing the inquiry, the committee will fulfill the wishes of the child and can pass such orders like:

- a). can declare that child is in need of care and protection
- b). restore the child to his/her parents
- c). can place the child in children's home
- d). can place the child to any temporary or long term care
- e). can declare the child is legally free for adoption

5. AGE DETERMINATION OF THE CHILD

The JJ Act 2015 is applicable or not depends upon the age of child on the date when the said offence is alleged to be committed. If the board has suspicion on the age of the child then for this purpose the birth certificate or certificate of matriculation will be considered as proof. If these documents are not available then ossification test is one to determine the age.

CONCLUSION

Children are the responsibility of the parents, society and the nation. It is the duty of the nation to protect the basic right of the juveniles. JJ act, 2015 is regressive towards the juveniles who are 16-18 and have committed the heinous crimes like rape, gang rape, murder etc. According to the author's opinion this is necessary to treat some cases of juveniles as adult because of the brutality. Because this whole criminal mindset is not dependent upon the age factor.

