

A Brief Study on Salient features of Juvenile Justice (Care and Protection of Children) Act, 2000 and Tamil Nadu Juvenile Justice Act, 2001

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Abstract— This study aims the causes behind juvenile delinquency, and the measures that are being taken for the positive development of the children in conflict with law. The reason for the rising trend of criminal tendencies among youngsters in our society is due to the deteriorating family structure and parent-child relationship. The games that today's children play on their cell phones, laptops or personal computers are full of violence and aggression. Even the TV programmes and movies nowadays are crime related and have violent content. It is the duty of the parents to check how much of education value is there in these programmes. The fact is that today's children have very few options for venting their natural teenage aggression. There is minimal communication even in friend circles, except for playing games. In such a scenario, children, especially the youth, do not know where to stop or what are the consequences of getting involved in criminal activities. The situation of Tamil nadu points out to the vulnerable conditions of children in conflict with law that need to be addressed urgently.

Keywords— *Juvenile Justice System*

1. Introduction

A Prisoner up to the age of 18 is considered as a juvenile Prisoner. Under Section 27 of Act IX of 1894 male prisoners under the age of 18 years shall be kept altogether separate from other prisoners. Those who have not arrived at puberty shall be kept separate. This applies both to the convicted prisoners and prisoners under trial. Female juveniles shall be kept in female wards. In the opinion of Reckless, the juvenile delinquents of India should be gotten out of adult jails, adult courts, and police lockups and special facilities for delinquent juveniles shall be provided in the form of juvenile courts, remand homes, probation, certified schools and after care [1].

2. The Juvenile Justice (Care and Protection of Children) Act, 2000

The JJ Act 2000 is the primary legal framework for juvenile justice in India. The Act provides for a special

approach towards the prevention and treatment of juvenile delinquency and provides a framework for the protection, treatment and rehabilitation of children in the purview of the juvenile justice system. This law brought in compliance of the 1989 UN Convention on the Rights of the Child (UNCRC), repealed the earlier Juvenile Justice Act of 1986 after India signed and ratified the UNCRC in 1992. This Act has been further amended in 2006 and 2010 [2]. The Government of India is once again contemplating bringing further amendments and a review committee has been constituted by Ministry of Women and Child.

2.1 Child in need of Care and Protection

A. Child Welfare Committee

1. The State Government may, by notification in Official Gazette, constitute for every district or group of districts, specified in the notification, one or more Child Welfare Committees for exercising the powers and discharge the duties conferred on such Committees in relation to child in need of care and protection under this Act.

2. The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman and another, an expert on matters concerning children.

3. The qualifications of the Chairperson and the members, and the tenure for which they may be appointed shall be such as may be prescribed.

4. The appointment of any member of the Committee may be terminated, after holding inquiry, by the State Government, if-

i. He has been found guilty of misuse of power vested under this Act;

ii. He has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

iii. He fails to attend the proceedings of the Committee for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year. 5. The Committee shall function as a Bench of Magistrates and shall have the powers conferred

by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class.³

B. Inquiry

1. On receipt of a report under section 32, the Committee or any police officer or special juvenile police unit or the designated police officer shall hold an inquiry in the prescribed manner and the Committee, on its own or on the report from any person or agency as mentioned in sub-section (1) of section 32, may pass an order to send the child to the children's home for speedy inquiry by a social worker or child welfare officer.

2. The inquiry under this section shall be completed within four months of the receipt of the order or within such shorter period as may be fixed by the Committee: Provided that the time for the submission of the inquiry report may be extended by such period as the Committee may, having regard to the circumstances and for the reasons recorded in writing, determine.

3. After the completion of the inquiry if the Committee is of the opinion that the said child has no family or ostensible support, it may allow the child to remain in the children's home or shelter home till suitable rehabilitation is found for him or till he attains the age of eighteen years.

C. Children's homes

1. The State Government may establish and maintain either by itself or in association with voluntary organisations, children's homes, in every district or group of districts, as the case may be, for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.

2. The State Government may, by rules made under this Act, provide for the management of children's homes including the standards and the nature of services to be provided by them, and the circumstances under which, and the manner in which, the certification of a children's home or recognition to a voluntary organisation may be granted or withdrawn.

D. Inspection

1. The State Government may appoint inspection committees for the children's homes (hereinafter referred to as the inspection committees) for the State, a district and city, as the case may be, for such period and for such purposes as may be prescribed.

2. The inspection committee of a State, district or of a city shall consist of such number of representatives from the State Government, Local Authority, Committee, voluntary

organisations and such other medical experts and social workers as may be prescribed.

3. Social auditing - The Central Government or State Government may monitor and evaluate the functioning of the children's homes at such period and through such persons and institutions as may be specified by that Government [4].

3. Juvenile Justice (Care and Protection of Children) Act, 2006 & 2010

Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) as amended by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 (33 of 2006), states that:⁵ "Prohibition of publication of name, etc., of juvenile or child in need of care and protection involved in any proceeding under the Act-(1) No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law or a child in need of care and protection under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile or child shall nor shall any picture of any such juvenile or child shall be published: Provided that for any reason to be recorded in writing, the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile or the child. (2) any person who contravenes the provisions of sub-section (1), shall be liable to a penalty which may extend to twenty-five thousand rupees". The Supreme Court of India vide Judgement in Hari Ram Versus State of Rajasthan confirmed the retrospective effect of the Juvenile Justice Act, 2000 in 2009, which was earlier confirmed by some of the High Courts in India, particularly by Bombay High Court. Pursuant to an order of Delhi High Court, the Act was further amended in 2011 whereby certain provisions which were discriminatory to the persons affected by leprosy have been deleted [6].

4. Juvenile corrections law and legal definition

The correction system for juveniles and adults are different. The facilities in which juvenile offenders convicted of a crime spend time in order to receive rehabilitation are referred to as juvenile corrections. Judges who specialize in juvenile crime handle their cases, and the sentences are handled by the juvenile corrections system.

The juvenile corrections system consists of probation officers and social workers. The court has many options when determining how a youthful offender should be punished. The punishment for a juvenile are intended to rehabilitate them and ensure that the juvenile does not begin a life of crime. The rehabilitation process helps juvenile offenders in learning new coping and social skills to better

handle situations and avoid becoming repeat offenders [7].

5. The Tamil Nadu Juvenile Justice (Care and Protection of Children) Rules, 2001

In exercise of the powers conferred by Section 68 of the Juvenile Justice (Care and Protection of Children) Act, 2000 [Central Act 56 of 2000], the Governor of TamilNadu is hereby makes the following rules, namely:-

1. Short title, extent and commencement

(1) These rules may be called as the Tamil Nadu Juvenile Justice [Care and Protection of Children] Rules, 2001.

(2) These rules shall extend to the whole of the State of Tamil Nadu.

(3) These rules shall come into force (on the date of publication of these Rules in the Tamil Nadu Government Gazette).

5.1 Juvenile in Conflict with Law

A. Tenure of the Juvenile Justice Board

(1) Every Social Worker member of the Board shall hold office for a period of three year from the date of appointment.

(2) The Social Worker member of the Board shall be eligible for appointment for a maximum of two terms and shall not be more than 65 years of age at the time of first appointment

(3) The tenure of appointment of Social Worker member other than the Principal Magistrate may be terminated by the State Government at any time, if—(a) he has been found guilty of misuse of power vested under this Act.

(b) He has been convicted of an offence and such conviction has not been reversed or he has not been granted full pardon in respect of such offence.

(c) He fails to attend the proceedings of the Board for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

(4) Every casual vacancy of the Social Worker member may be filled by appointment of another member, who shall hold office for a period of three years from the date of appointment.

(5) Any social worker member may resign at any time by giving three months advance notice in writing to the State Government.

5.2 Constitution of the Child Welfare Committee

(1) The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, on the recommendation of the committee constituted for this purpose under rule 16 of whom at least

one shall be a women, and another an expert on matters concerning children.

(2) The Child Welfare Committee shall be a bench and every such bench shall have the powers conferred by the Code of Criminal Procedure, 1973, on a Metropolitan Magistrate or a Judicial Magistrate.

(3) The Chairperson and member of Child Welfare Committee should possess special knowledge in Child Psychology and Child Welfare.

(4) The Chairperson and members of Child Welfare Committee should possess the following other qualifications:-

(a) A degree in any one of the Social Sciences such as Psychology or Criminology or Sociology or Social Work or Economics or Home Sciences or Education or Political Science or Women Studies or Rural Development or Law or Medicine.

(b) Should have been at least engaged in health, education or other rehabilitative and welfare activities pertaining to children for atleast seven years.

(c) Among the members one shall be a woman and one may be an experienced teacher.

(5) The members who shall be nominated to the Committee would not have been involved in any criminal offences involving moral turpitude and would have not been convicted previously.

5.3 Tenure of the Child Welfare Committee

(1) Every member shall hold office for a period of three years from the date of appointment.

(2) The members of the Committee shall be eligible for appointment for a maximum of two terms and shall not be more than 65 years of age at the time of first appointment

(3) Every casual vacancy of the member may be filled by appointment of another member, who shall hold office for a period of three years from the date of appointment.

(4) Any member may resign at any time by giving one month's advance notice in writing to the State Government.

5.4 Establishment of Institutions under The Act

A. Establishment of Observation Home.

1. The State Government may establish and maintain Observation Home either by itself or under an agreement with voluntary organisation in every District or a group of Districts, as may be required for the temporary reception of any child in conflict with law during the pendency of any enquiry regarding him under this Act. No child other than a child in conflict with law shall be admitted in the Observation Home under any circumstances. Separate enclosure shall be maintained for boys and girls and they can also be classified and separated in accordance with their age as follows:

Between the age group of 8 and 12;
Between the age group of 12 and 16; and
Between the age group of 16 and 18.

2. The State Government may also certify or recognise any institution as Observation Home for the purpose of this Act.

3. The Juvenile Justice Board shall also recognise any institution as a place of safety in the place of Observation Home for the temporary reception of any child in conflict with law, during the pendency of any inquiry regarding them under this Act.

4. If in the opinion of the Juvenile Justice Board, any place is certified as a place of safety and the child in conflict with law is ordered to be kept in the place of safety, the State Government shall pay Rs.300/- p.m. towards maintenance charge for the child.

5. Whenever a child is kept in a place of safety, the Superintendent of Police or the Commissioner of Police shall cause the transportation of the child from the Juvenile Justice Board to the place of safety vice versa for further enquiry and trial preferably by woman police in plain clothes.

6. The Director of Social Defence shall pay the maintenance charge to the officer in charge or the competent authority of the place of safety, within three months from the date of claim is made.

7. The Juvenile Justice Board shall have the power to direct a child in conflict with law to be kept in a Special Shelter in any Observation Home in case of child who needs more vigilance.

5.5 After Care Organisation

(1) The State Government shall establish and maintain After Care Organisations by Govt. itself or through Non Governmental Organisations to serve the following purpose:

i. to provide Care and Protection to the discharged children from Special Home or Children's Home to receive shelter facilities for not exceeding three years.

ii. In the case of children prosecuting professional courses, the Govt. shall meet the expenditures on his education, boarding and lodging in the concerned students hostels. Such stay of the individual may be treated as an extension of the After Care Programme. During such stay the social integration process shall be initiated.

iii. To provide children to receive training on job oriented programmes.

iv. To obtain specialised training to improve their skill in particular job oriented training programme.

v. To receive personality development or career development programmes to prepare themselves to face interviews.

vi. To obtain training in spoken English and communication skills for better social integration.

(2) Children who have no parent/ guardian alone are

eligible for admission. Provided the children who have parent/guardian shall also be admitted for specific purposes of continuing their higher education or vocational training.

(3) A child who has been discharged from the institution shall not be admitted again.

(4) A child who has been employed shall be ineligible to continue in the institution.

(5) No person who is over and above the age of 21 years shall be allowed to continue in the After Care Organisation.

(6) After Care Organisations shall function like community colleges. The concept of community college provides the following:

- i. Empowerment and skill development
- ii. Facilitate employment to disadvantaged
- iii. Create job oriented training to suit the local needs
- iv. Participation of industries in the training and employment potentialities.
- v. Resource maximization.
- vi. Life hopping education by developing skill based work culture

7. The starting of community college should have the following pre-requisites:

- (a) there should be a conceptual clarity
- (b) Need analysis
- (c) Industrial collaboration need be identified.
- (d) Feasibility study
- (e) Recruitment of personnel (Instructors)
 - (i) Full time anchor staff
 - (ii) Part time instructors from industries
 - (iii) Guest faculty
 - (iv) Supportive staff
 - (v) Trainers.

(8) Community colleges shall have affordability, accountability and flexibility while sub-serving the interest of the discharged children from Special Home or Children's Home. The Community Colleges shall serve as facilitating factor or a bridge between education and employment [8].

6. Life in India's Juvenile Homes

The setting seems to reflect in the eyes of the players. A long room with no relief, there's no furniture, the room is poorly ventilated and, for the 100-odd children, there is only one toilet at each end. By way of décor, there's a long plastic rope running along the structure on the outside. On it hang a pathetic assortment of uniforms, the only change of clothes for the inmates. This is the government-run children's home for boys in roayapuram, chennai city, and home to children who, at least for now, have nowhere else to go. In a nearby building, children in a classroom clamour for the attention of their visitor. They shake hands with her and ply her with urgent requests to send them back home. The visitor is vidya shankar, chairperson of the state juvenile welfare board and founder-director of the non-governmental organisation, relief foundation [9].



Fig.1- Juvenile Prison

In a building meant to house around 200-250 children, they had over 850. Their funding and resource allocation, however, remained the same. One thing was clear: even though they were enduring the most terrible conditions, these children were still safer in a juvenile home than on the streets. They had food, shelter and protection. We found the officer-in-charge proactive and willing to help. We decided it would be best to work with the system; the challenge was to use its advantages in a constructive way and to overcome the obstacles it posed." At any point of time, there are 250 children at the children's home for boys, royapuram, 275 girls at the children's home for girls in Kellys and 60 boys and girls at the government observation home also in Kellys. Besides this, there is an inflow and outflow of 100 children in all three homes together. With the support and initiative of the then presiding officer of the juvenile home in royapuram, relief foundation began a series of interventions to help improve the lives of the children who lived there. Funds were raised to repair the existing toilets and build new ones. Another drive brought in clothes for the children. Sponsors were found to provide money for a healthy change in diet twice a week -- pongal on one day and idli on another [10]. The existing budget allowed only for ragi conji, with very little variation in a predominantly rice-based diet. A doctor volunteered his services and medical treatment was secured. Things improved. Along the way, there was some bad press about the administration that almost derailed the project. But, following consultations, better sense prevailed. Permission was sought and secured to extend the services to the other two juvenile homes in Chennai and Kellys.

7. Conclusion

The Ministry of Women and Child Development started contemplating bringing several desired amendments in 2011 and a process of consultation with various stakeholders was initiated. A draft Bill in this regard was prepared and was pending before the Ministry of Law and Justice for scrutiny and was put up on the official website of Ministry of Women & Child Development in June 2014 for public inputs. The end purpose of the juvenile justice

system is not to punish but to rehabilitate the juvenile. The rehabilitation of the juvenile means the delinquent's behaviours are to be controlled and his general life adjustments have to be modified. The social workers have a major role to play in the rehabilitation of the juvenile delinquents and helping him to achieve socially acceptable mode of participation by improving the parenting style of care takers. Therefore the rehabilitation of the juvenile delinquents must take in to account the total person in the total environment and must concentrate on the modification of the parenting styles for better moulding and influencing their behaviour.

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