

Effective Implementation of Juvenile Justice System

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“Juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure. ‘Youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage’. This is explained in part by the prevailing circumstance that juveniles have less control, or less experience with control, over their own environment.”

ROPER V. SIMMONS, 543 U.S. 551, 569 (2005)

INTRODUCTION

The most progressive and enlightened system for children and adolescents is Juvenile Justice System. This system is not only adopted to take care of adolescent who are not competent enough to held responsible for their criminal acts but also to understands and fulfill various needs of the children who need care and protection. This system is adopted by whole world to provide justice, to facilitated young adults and children in such a manner so that they can live their life as a normal human being and link them with the main stream of society.

In the last few decades, the crime rate by the children under the age of 16-18 years has increased. Some of the common reasons of increasing crime rate are poor economic condition, lack of education, lack of family time with kids and inadequate or insufficient parental care. Drastically, most of the children are used as tool to commit crimes by adults.

Perhaps all the children are considered to be the future of any country they must have such an upbringing with moral, social, cultural and educational development so that they can become responsible citizens and can take part in the development of any country.

The juvenile justice system is made with the view to fulfill all such needs so that the children who lack basic requirements can be lifted by the support of this system. There are three kinds of children come in this system.

1. Child in conflict with law(CICL): Child in conflict with law is defined under 2(13) of JJ Act, 2015 who alleged or found to have committed an

offence and who has not completed eighteen years of age on the date of commission of such offence.

2. Child in need of care and protection (CNCP): Child in need of care and protection is defined under section 2(14) of the Act. It includes homeless, found working in contravention or begging or living on the street or who resides with a person who exploits, abuse, neglect the child or has violated any other law for the time being meant for the protection of children and such kind of other children.
3. Child victims: This category has not been defined under the act but the victims of offences are provided compensation as per the provisions of State Legal Service Authority.

HISTORY OF JUVENILE JUSTICE SYSTEM

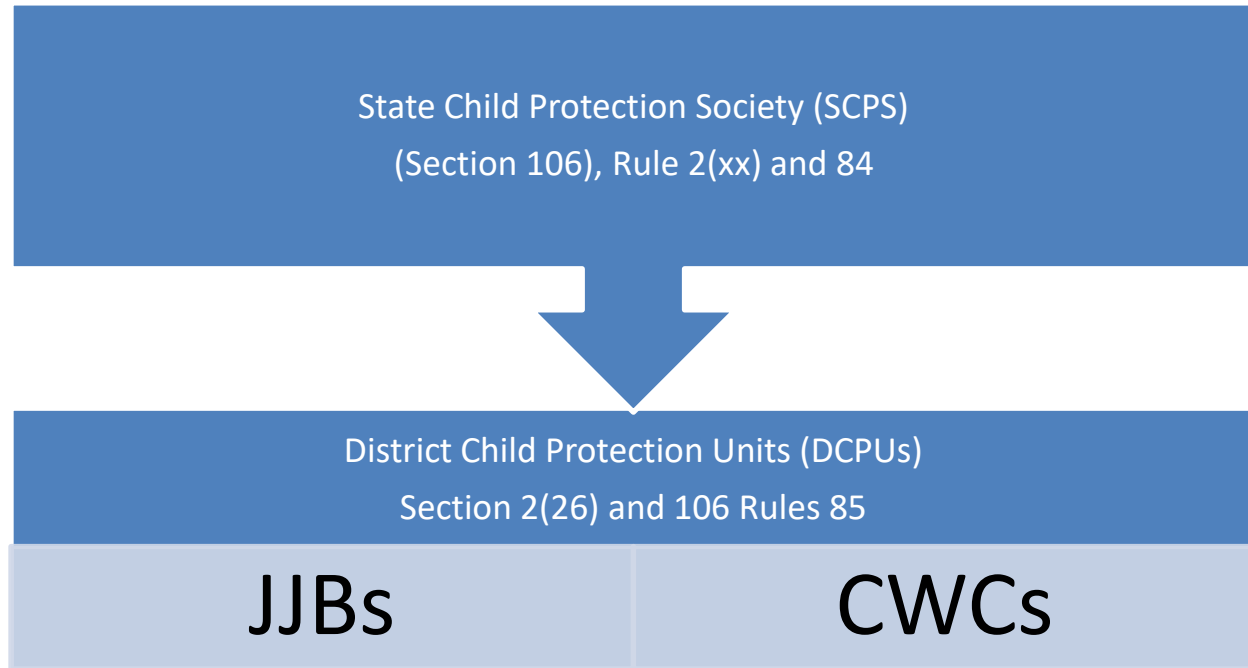
Before 19th century children above the age of 17 years, alleged or found to have committed an offence were considered as young adults. This system worked against the children as instead of changing their attitude towards crimes they used to get involved in more crimes. This is the reason many states started creating reform schools and work farms for the children. After that in 1899 U. S. made legal history by creating *first juvenile court in Chicago* because they recognized that children's are not as mature as adults and as they can be reformed into good human being.

Prior to the Juvenile Justice Act of 2015, 2000 and 1986, there existed the Children Act of 1960 that aimed to give effects to the international responses towards the issue of Juvenile Justice by which they provided a uniform policy that protected the interests and rights of a Juvenile but with the recent developments in the international community and subsequent emergence of the involvement of Juveniles in crime, the Juvenile Justice act of 2015 was passed by the Parliament.

STRUCTURE OF JUVENILE JUSTICE SYSTEM IN INDIA

The Juvenile Justice system is managed by Woman and Child Development Department of Government of India at central and state levels. This system is based

on a law named Juvenile Justice (Care and Protection of Children) Act, 2015 and rules named Juvenile Justice (Care and Protection of Children) Model Rules, 2016. Under the Integrated Child Protection Scheme (ICPS) there are some administrative as well as legal bodies under the umbrella of ICPS such as -



Juvenile Justice Boards: The Juvenile Justice Board is an institutional body constituted under Section 4 of the JJ Act, 2015. According to the division of powers, the subject of administration of criminal justice has been included in the State List (List II, Schedule VII) of the Indian Constitution. Therefore, one or more than one Juvenile Justice Board(s) are established by the State Government for each district. The Board exercises its powers and discharges functions relating to the 'child in conflict with law' as has been defined under Section 2(13) of this Act.

Composition of Bench under Juvenile Justice Act, 2015 includes a Metropolitan Magistrate or Judicial Magistrate First Class which is called Principal Magistrate and two social workers, one being a woman.

It was held by the Himachal Pradesh High Court in the case of State of Himachal Pradesh vs. Happy (2019 SCC Online HP 700) that judgment passed by a single member of the Juvenile Justice Board is void ab initio. In this case, the impugned order was passed by a single Magistrate, without fulfilling the criteria of the composition required for the functioning of the

Juvenile Justice Board. Therefore, the order was set aside.

Child Welfare Committees: Child welfare committees are constituted as per the provisions of Chapter 5 of Juvenile Justice Act, 2015. For the Children in need and care of protection, 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 in relation to child in need of care and protection under this Act. The Committee shall consist of a Chairperson and four other members, of whom at least one shall be a woman and another, an expert on matters concerning children. The Committee shall function as a Bench of Magistrates. A child in need of care and protection is produced before CWC for being placed in safe. The Committee has the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.

CHILD CARE INSTITUTES - AVAILABILITY AND NEED

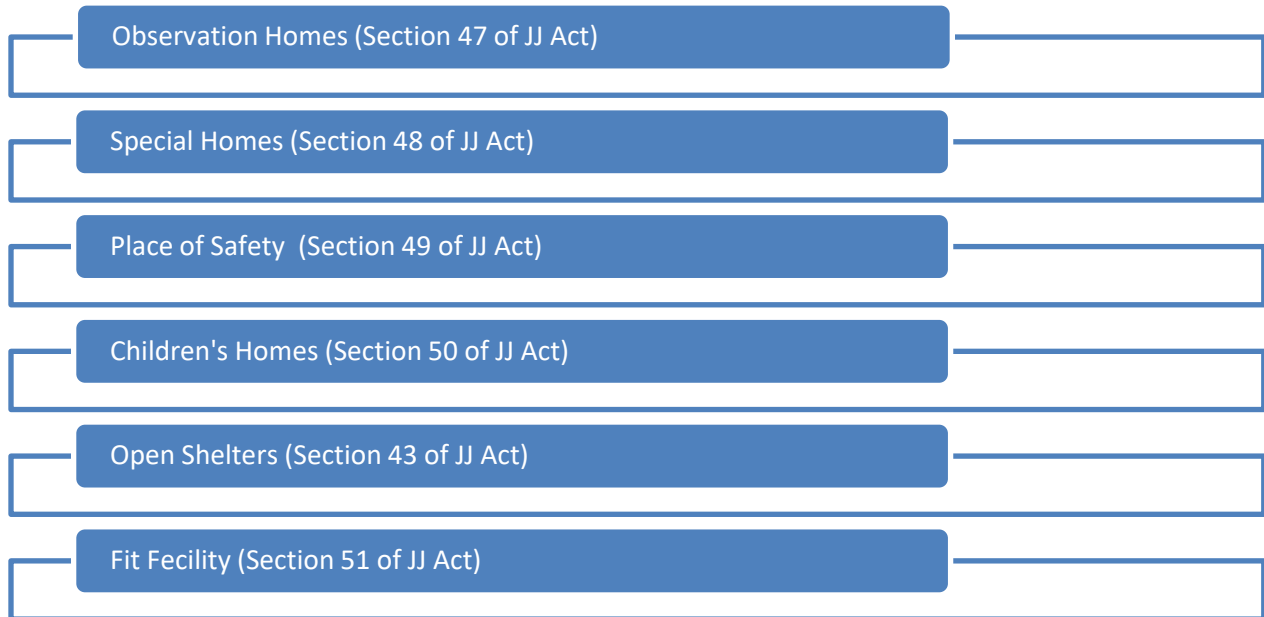
Juvenile Justice law divides children into two categories, viz., Children in Conflict with Law (CICL) and Children in need of care and protection (CINCP). Thus it provides different kind of institutions for both categories. While some institutions such as observation homes, special homes and children's homes are required to be set up in every district or for a group of districts, every state and UT must have at least one place of safety. Open shelters and fit facilities are to be set up/ recognized as per need. Observation homes, special homes and place of safety are for CICL and children's homes, open shelters and fit facilities are for CINCP. As per a report only 14% of the States and UTs have an observation homes in every district.

Child care institutes constituted as per the provisions of JJ Act are lacking in facilities such as infrastructure, training and rehabilitation programs.

Juvenile Justice System pays attention to active implementation of the provisions of this act; in this regard it provides provision to monitor such institutions. Principal Magistrates of JJBs, DCPUs, SCPS or the concerned Department in the state/UT, State Inspection Committee, and Monitoring Committees of the District Courts emerged as the authorities conducting visits in such institutions.

The children in such institutions must utilize their time in constructive activities thus DCPUs are made responsible to provide/continue education, provide various training programs by the help of various NGOs.

DIFFERENT CHILD CARE INSTITUTIONS PROVIDED BY JUVENILE JUSTICE SYSTEM



PROBLEMS IN EFFECTIVE IMPLEMENTATION OF JUVENILE JUSTICE SYSTEM

Juvenile justice system with all its legal provisions is a noble piece of legislation. It incorporates all the provisions to ensure overall development of children whether they are having conflict with law, lacking care and protection, need adoption of providing basic and other facilities in child care institutions. But what is

the reason that it is not yet implemented as it is suggested by the makers of this legislation. Some key reasons are -

- Lack of communication between the agencies of juvenile justice system
- No/Inadequate infrastructure is provided in every state and UT as suggested by the Act.
- No Juvenile justice fund as provided by section 105 of JJ Act is available in each state/UT

- Lack of knowledge about the provisions of the act as in many cases children are arrested instead of following the provisions of Model Rules 8(1)
- In most of the states no follow up or after care plan is followed
- In some districts where joint observation homes are available, members of the other districts have no authority to communicate with the children.

STEPS TO BE TAKEN FOR EFFECTIVE IMPLEMENTATION OF JUVENILE JUSTICE SYSTEM

1. Individual Care Plan
2. Follow up post restoration and release
3. Training and capacity building
4. Awareness about JJ Act
5. Awareness about Sexual Offences
6. Cultural and Moral Development in slums and under privileged areas
7. Legal awareness in Middle/High/Higher Secondary school children
8. Capacity building modules
9. Strict implementation of laws where children are used as tools to commit crime:
10. Adoption Rules should be simplified:

Individual Care Plan: It's a comprehensive development plan provided under section 2(ix) of JJ Act, 2015. It is basically prepared in consultation with child in order to restore the child's self-esteem, dignity and self-worth and nurture him into a responsible citizen and accordingly the plan shall address health and nutrition needs, emotional and psychological development, protection from all kinds of abuse, neglect and maltreatment, restoration and follow up, social mainstreaming and life skill training.

In many states and union territories this individual care plan is given priority and children in such institutions are easily able to connect themselves with society and focus on their overall development. Still it is required to effectively implement this care plan in all states and USs.

Follow up post restoration and release: If a CINCP are restored, it is a primary duty of Probation officer to follow up so that it can be assured that the children is not lacking in basic needs and facilities. This follow-up may be concerned on some points such as education,

training and emotional cum social stability etc. The follow up of CICL includes information and counseling regarding his involvement in illegal acts.

Training and capacity building: The Supreme court of India and various High courts have stressed upon the need for training and capacity building of Principal Magistrates, members of the CWCs, JJBs, staff in CCIs, police and other members of juvenile justice system. These training agencies are largely Judicial Academies, SLISA, NIPCCD, National Law Universities and concerned departments and UNICEF. These training modules focus on various provisions of Juvenile Justice System so that people in concerned institutions of this system can effectively work with the people and system itself.

Awareness about JJ Act: The juvenile justice system is such a system which is being used as a defense for many people. It is much accepted fact that the juvenile justice system does not punish the offender or if it punishes the offender, the duration is lesser than the other offenders convicted for the same offence. Only this fact is publicized a lot. However it is important to convey the soul of this act which is such that, every child is an asset to family, society and country as a whole. No child shall become the part of this system and if by any means if a child becomes part of this system, it's the duty of state to keep him protected and focus on his overall development, provide him counseling so that he can become a part of the mainstream of society. Thus awareness about the provisions of Juvenile justice system is a step ahead in effective implementation of this system.

Awareness about Sexual Offences: These kinds of offences are increasing a lot. It's a matter of research that "what are the key factors of increasing sexual offences in India?" However it seems that social media, internet, television and easy access to such devices, play an important role in increasing sexual offences. Various studies confirm the fact that children and adolescents are more curious than the people of other age groups. They need to satisfy their curiosity. Whatever they watch they need to repeat it. If they are not aware of the consequences of their act, they become the part of this system. Thus it is important to pay attention regarding the awareness of sexual offences. Now a days, parents and teachers teach

children about good touch and bad touch but this is an alarming time, they need to understand more about it. And it is also suggested that many other methods should be developed to make children understand that this curiosity can be harmful for them.

Cultural and Moral Development in slums and under privileged areas: Juvenile justice system is now dealing with variety of offences. This is not only limited to assault, kidnapping, rape, POCSO, but juveniles also used to involve in unlawful assembly, affray, obstructing public servant under IPC, 1860 and theft of railway property and transportation of liquor etc. Its an alarming aspect and needs involvement of society, NGOs, and other people who really take care about overall development of society. To stop such acts by children, there is a need to rethink and apply cultural and moral development model in areas where parents used to leave their children alone or with close relatives. It is suggested that by the help of films, moving theatres, skits and training programs an awareness about such illegal acts and their consequences can be developed.

Legal awareness in Middle/High/Higher Secondary school children: Legal education is an important need for school going children of various middle, high or higher secondary schools. The education system is under construction so it is suggested to such authorities to incorporate Law as a compulsory subject at this level.

Capacity building modules: By the help of various capacity building courses children of age 12 and above must provide vocational courses as per their interest so that they will come to know about their capacities and fields of interest which will further help in deciding their career and on the other hand they will not have time to get involved in such illegal activities.

Strict implementation of laws where children are used as tools to commit crime: In many cases it has been observed that children are involved in crimes because they are compelled to do such acts either by instigating or by seduction. Chapter 9 of JJ act provides such provisions and these should be followed strictly to stop such crimes.

Adoption Rules should be simplified: There are many parents who need to adopt a child but due to difficult procedure, documentation, inquiry and other formalities they are less interested to follow such procedures. Thus it is suggested that these rules should be simplified for the betterment and welfare of children in need care and protection.

CONCLUSION

Children being the future of any society should be given much priority. But when they become a part of juvenile justice system responsibility of family as well as corresponding authorities is increased. The focus of parents is shifted from concentrating on the career of their child to making him a responsible citizen of society.

The problems of juvenile justice system are of such nature that can be solved easily because the Act itself provides various provisions in this regard. The welfare of a child shall be the first priority. When a child gets involved in any crime their mental state is different that from an adult, so they must be taken proper care. Though every country have Juvenile Justice Act and they had also amended it to make it modern and more particular but they must properly exercise it, the society must also support the Government to reduce juvenile crimes. The juvenile crimes are increasing which need to be focused and the Government must also look after the factors for which juvenile crimes are increasing and try to resolve it.