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Investigation Process In Juvenile Crime.

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Introduction

Law is a system of rules that were created and enforced through social or governmental institutions to regulate behaviour. It is a system that regulates and ensures every individual or a community adheres to the will of the state. Law is important for a society for it serves as a norm of conduct for citizens. It also provides proper guidelines and order upon the behaviour of all citizens and to sustain equality on the three branches of the government. It intends to keep society running smoothly. Without proper law, there would be chaos and it would be survival of the fittest. If there are no proper rules or laws in a society then every man would be a judge in his own case and also the harmony of the society cannot be achieved. We have moved from a police state to a welfare state by developing laws and bringing about changes in various aspects of our society. Laws play a pivotal role in the administration of justice and as a fuel for judicial equality.

Law always concentrates on what is right and wrong, lawful and unlawful, rights accomplished with duties, promotion of peace, upholding equality, justice to victims etc. This can be achieved when a society is progressing and accepting changes made to its laws, for example- mandatory education for children below 14 years of age. In order to maintain peace and promote the nation it is very important the citizens adhere to the laws of the land.

In order to achieve justice everyone should be treated on the same footing. This very principle is also imbibed in the Constitution of India under Art 14- Right to equality. It provides for "Equality before law and Equal protection of laws". The equality which is equivalent to Dicey's concept of rule of law (England) and American Equal protection of law is an important fundamental right. The expression "rule of laws" is derived from a French phrase "la principle de legalite" which means a government based one of law. This article emphasises and treats everyone equally without any discrimination. All persons are to be treated equally in the equal circumstances. This right can be claimed anywhere within the territory of India and is also available to both citizens and non-citizens. This applies to both

substantive law and procedural law. This article also emphasizes on “Equals to be treated Equally” which means where a class or group of people are to be treated differently based on the merits of the case they must be treated among the equals, for example- Juvenile Justice Act, Narcotic Drugs and Psychotropic Substances Act etc.

Article 7 of the Universal declaration of Human Rights states that “All are equal before the law and are entitled without any discrimination to equal protection of the law”. Thus everyone must be treated equally under law irrespective of race, religion, gender, national, origin, colour, ethnicity, religion, disability, or other characteristics without privilege, discrimination or bias.

In this paper, I would give a brief idea with regards to child laws and why children are to be treated with a special leverage, defence of infancy, few of the increasing child problems and finally the ways in which it could be tackled. It is very important for one to understand child laws because they are the future assets. Also this paper will talk of the new law that was enacted in 2015.

Arrest of Children

As per the juvenile justice act 2015 and amendment police can arrest children if they believe they have committed a crime. Typically, police stations will have a child welfare protection officer (Section 107 of JJ Act 2015) and in each district and city, there will be at least one special juvenile police unit. When the police arrest a child on suspicion of committing a crime, this should normally be done by a Special Juvenile Police Unit. If a regular police officer arrests the child, then the child should immediately be placed under the care of the Juvenile Police Unit, or a designated Child Welfare Police Officer. (Section 10 of JJ Act 2015).

The police can also arrest children who have run away from an institution where they were placed under the JJ Act (Section 26 of JJ Act 2015), such as an Observation Home (Section 47 of JJ Act 2015) , Special Home or Place of Safety (Section 49 of JJ Act 2015).

In certain circumstances for example, with respect to habitual thieves), the Magistrate can order that adults be detained in prison if they do not execute a bond for good behaviour or peace. (The Code of Criminal Procedure 1973 - Section 106). Even though arrests of children are allowed, the Magistrate cannot order a similar detention with respect to children. (Section 22 of JJ Act 2015).

Responsibilities of the Police when they arrest the child in conflict with law?

The police cannot handcuff you or exert any force when they arrest you (Rule 8(3)(ii), Model Rules).

- The police officer must, immediately, inform child parents or guardians.
- If they do not release child on bail, then the officer must tell them the location of the JJB where they will be produced. (Section 13 of JJ Act 2015).
- The police officer, or probation officer if there is one, is also required to prepare a ‘Social Investigation Report’ within two weeks and submit it to the JJB. This contains details that would be helpful for the JJB to make its decisions, such as child family background. (Section 13 of JJ Act 2015.)

Can the police keep Child in jail?

A child can never be kept in a police lockup or regular jail. The police must bring the child before the JJB within 24 hours (Section 10 of JJ Act 2015). If the police does not release child immediately on bail, you can only be kept in an Observation Home and pron juvenile justice board (Section 12 of JJ Act 2015) until child are taken to the JJB (within 24 hours). The police are also supposed to inform a child welfare officer who is supposed to accompany child to the JJB for the first hearing. (Rule 8(2)(iii), Model Rules).

Process when juvenile arrested by police

The police have a duty to tell parents or guardians of child why they have been arrested. They can ask the police for the charges under which they have been arrested.

If the police have registered an FIR (or first information report), they have a duty to give their parents or guardians a copy of this FIR (Rule 8(3)(iii), Model Rules). An FIR is the document prepared by the police when they get any information about a crime that has occurred. To know more about FIRs.

Juvenile justice board decides about detaining of child in conflict with law

- The JJB has the power to detain juvenile (Section 12 of JJ Act 2015), though, this is the exception and the rule is bail. If the JJB decides to allow for juvenile release on bail, their parents or guardians are supposed to submit an undertaking in a certain form (Form 2, Model Rules).
- If they are unable to satisfy the bail conditions for a week, then the JJB is required to modify these to help them (Section 12 of JJ Act 2015).
- The JJB may decide to deny bail if this is against your interests. For instance, if this would bring child into contact with criminals or expose him/her to moral, physical or psychological danger. (Section 12 of JJ Act 2015).

Juvenile Sends in Juvenile Observation Home

While the inquiry is going on, juvenile can only be detained in Observation Homes or a Place of Safety. The JJB has to tell juvenile or their parent's how long he will be detained in the order (Section 12 of JJ Act 2015).

After Arrest.

What happens when child have been arrested depends on the kind of the crime child have been accused of.

Petty, Serious, and Heinous Offences

The JJ Act 2015 inserted a new scheme which divided crimes into three categories: Petty, Serious and Heinous.

1. Petty Offences : Crimes for which maximum punishment is imprisonment up to 3 years. These include crimes such as assault, causing simple hurt, theft, forgery etc.
2. Serious Offences : Crimes for which punishment between 3 to 7 years' imprisonment. These include crimes such as attempt to commit culpable homicide, causing grievous hurt, cheating etc.
3. Heinous Offences : Crimes for which punishment is imprisonment for 7 years or more. These include crimes such as murder, rape, dacoity etc.

Things different for the different types of crimes:

The manner in which the JJB must conduct its proceedings will now depend on the type of the crime child have been accused of committing. Now, the JJB must first look at the nature of the offence. Different procedures are adopted for different kinds of offences.

- Time Limits: In all cases, the JJB is required to complete its inquiry within 4 months. This may be extended to 6 months. But any inquiry pending after 6 months expire shall be terminated in cases of Petty Offences (Section 14 of JJ Act 2015).
- No automatic termination happens in cases of Serious or Heinous Offences – here the courts can grant an extension even beyond 6 months. (Section 14 of JJ Act 2015.)
- Different Legal Procedure: Cases with Petty Offences are disposed of in the same way a Summary Trial is conducted (Section 14 of JJ Act 2015). To know about summary trials click [here](#). Those with Serious Offences are conducted the way Summons cases are tried under the Cr.P.C (Section 14 of JJ Act 2015.)
- Different rules on FIR Registration: For Petty Offences or Serious Offences, the police are not supposed to register a FIR. They are supposed to record it in the general

diary along with the social background report. Only when a Heinous Offence is alleged can the police register an FIR against a child (Rule 8(1), Model Rules);

- Different Duties on Police Investigation: In cases of Heinous Offences, the police must produce statements of witnesses and other documents collected during investigation within one month from the date when the child was first produced. Copies of these have to be given to the child or their parents [Rule 10(5), Model Rules]. In other cases, the police must file the Final Report within two months from the date of information [Rule 10(6), Model Rules].

Heinous Offence

If the inquiry is about Heinous Offences, then it becomes crucial to determine whether the child is above or below the age of 16 years. If the child is below 16 years, the JJB conducts an inquiry just like it would for a Serious Offence i.e., where a summons case procedure is followed. But if the child is older than 16, then the JJB must conduct a 'Preliminary Assessment' (Section 14 of JJ Act 2015.).

Preliminary Assessment.

If a child is above 16 years, and is alleged to have committed a Heinous Offence, the JJ Act allows for the proceedings to be conducted under normal procedures like an adult and not the child-friendly procedures of the JJ Act. To decide whether a child should be tried by regular procedure, the JJB must conduct a 'Preliminary Assessment'. (Section 14 of JJ Act 2015).

The Preliminary Assessment is an attempt to find out whether the child was mature enough to understand her acts and their consequences. The JJB can take the help of trained psychologists and experts to arrive at its conclusions, (Section 15 of JJ Act 2015), but must complete the inquiry within 3 months. (Section 14 of JJ Act 2015).

If the JJB passes an order to keep proceedings under the Act and not send the case to the regular court, the government can appeal against this order.

Children tried as Adults.

When the JJB decides that a child should be tried as an adult after a Preliminary Assessment, it sends the case to a Children's Court (Section 18 of JJ Act 2015). The Children's Court may be an existing Sessions Court that is dealing with child-specific laws, or a special court set up for the purpose of dealing with crimes under the JJ Act. (Section 2 of JJ Act 2015).

Children's Court work.

The Children's Court may do one of the following two things (Section 19 of JJ Act 2015).

1. It may decide that the child must be treated like an adult for the trial, and then conduct a regular trial and pass final judgment. While the Children's Court can generally pass the maximum sentence for a Heinous Offence (i.e., it can pass a sentence of more than 3 years), it cannot award the death penalty or life imprisonment with the possibility of release in such cases.
2. It may decide that there is no need to conduct a trial as an adult, and may conduct an inquiry like the JJB, passing orders under Section 18 of the JJ Act.

In all proceedings, the Children's Court must ensure a child-friendly atmosphere is maintained. It must also ensure that the child be sent to a Place of Safety if detained during proceedings. If she is found guilty of a having committing the Heinous Offence, she will be sent to the Place of Safety until she becomes 21 years old, after which she can be sent to

jail (Section 20 of JJ Act 2015.) . The child should have access to reformatory services (like education, skill development) when she is at the Place of Safety.

Conclusion

There is a wellknown saying “today’s children are tomorrow’s citizens”. Children are the assets of any nation and if they are exploited then the nation would be adversely affected. Their childhood should not be robbed by anyone. India having the highest youth population must make sure the resources are used fruitfully. The government must also ensure their security and safety. It is also the duty of every citizen to act with due care.

Only when opinions are voiced out people understand the plight of the affected or minority class. One example is MALALA YOUSAFI, she is an activist working for the development and education of women and children in her native SWAT VALLEY, northwest of Pakistan, where Taliban had banned girls from attending schools. Education is the best way to empower and impart knowledge about one’s rights. Hence:

1. The government must take effective steps on the administration of mandatory education.
2. Rehabilitation homes or the Reform homes must be equipped with good Kinship care.
3. The government must make sure the juvenile needs are fulfilled with due care.
4. The juvenile schools must include teachings on ethics and conduct along with education.
5. Yoga and other activity camps must be included in the correction homes.
6. They must also have a check on the mental and physical health of the child.
7. There must be a strict law imposed on traffickers.
8. We people at large must also ensure that we shall not employ children to work.
9. The government shall provide necessary legal aid to the children.
10. To formulate an Individual care plan for each and every child based on understanding the child background (family needs, peer and neighbourhood influence, positive influence) needs and interest, through use of appropriate methods including counselling sessions, interaction with child family, home visits, aptitude testing for education and vocational training, and consultation with physical and mental health professionals.
11. Ensuring a feeling of safety and security.
12. Building up values of integrity, honesty, loyalty and implementing a good ethical conduct. Behaviour modification classes, psychiatric support during the stay in support homes.
13. Ensure that children accept responsibility and take accountability for the crime they were found to have committed and begin the process of healing and transformation.
14. Preparing the child for reintegration into the family and community with skills and a plan to ensure that he/she will not commit crime again.
15. Children must not be treated as prisoners but should be given liberty to accustom to the new changes.

These are few changes that must be accepted and brought up for a better nation. I would like to sum up the idea by “only when government and society work hand in hand shall the nation progress”. For a nation to progress young and efficient resources are required. To ensure the same offences against children should be curbed to a maximum extent. This can be

achieved when measures are followed strictly with a feeling of brotherhood, rather duty or responsibility. If all of us work towards the change, it can be achieved with no time. Hence educating the educated about child welfare is also as important as educating the illiterate.

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