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The New Law

New Juvenile Justice Act : Some significant provisions

Section 3(xii) JJ Act 2015 : Principle of institutionalisation as a measure of last resort.

Section 3 (xiii) : Principle of repatriation and restoration.

Section 8(2)(g): Recognises the principle that a child in conflict with law can also be a child in need of care simultaneously.

Section 8(2)(j) : Mandates that Juvenile Justice Board shall conduct at least one inspection visit every month of all residential facilities for children in conflict with law.

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Section 12: Bail to person who is apparently a child in conflict with law. Section overrides the provisions of CrPC or any other law. Grant of bail is the rule. Bail is to be denied only if release is against the interests of the juvenile, namely he may be exposed to moral, physical or psychological danger; or come into association with known criminals; or the release would defeat the ends of justice. Board is required to record reasons for denying bail.

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Section 18: Orders regarding child found to be in conflict with law. Section 18(g) provides that child may be sent to special home for a period not exceeding three years "for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support".

Section 39: Process of rehabilitation and social integration shall be undertaken in observation homes or in special homes or place of safety or fit facility.

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Section 97: Provides for release of child from Children's Home or special home (special home being defined in Section 2(56)), either absolutely or conditionally, to live with parents or guardian or under supervision of authorised person, who is willing to take charge, educate and train the child for some useful trade or calling or rehabilitation. Child released conditionally may be brought back to the home if he fails to fulfill conditions of release.

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The New Public Rhetoric

Society faced with times of moral outrage over juvenile delinquency. Societal pressure to shift from rehabilitation model to punitive policies with the intention of disciplining juveniles.

If child is old enough to commit “adult” crimes, he should be dealt with as an adult.

What Research Shows

Juvenile delinquency is the product of social disorganisation of neighbourhoods, which experience a breakdown of more conventional institutions like the family. Key to solving juvenile delinquency is the strengthening of community ties and institutions.

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Own Observation

Declared intent of the law and application of the law are at odds.

Juveniles incarcerated are predominantly from the poor sections of society. There is a form of societal stereotyping.

Those held for more serious offences are often kept in more “comfortable” conditions; others face harsher environment. Those about to be released appear more calm and settled, less violent.

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Way Forward

Shift focus from juvenile institutionalisation to juvenile rehabilitation.

Reliance must be on preventative programs, alternatives to incarceration and community-based solutions (such as group homes and day-treatment centres).

Supportive relationship between guards and juveniles.

Children be allowed to leave facility to work in the community on supervised projects. Where possible, juveniles be permitted to attend school. Sentence juveniles to “training schools”.