

Standing Committee Report Summary

The Juvenile Justice (Care and Protection of Children) Bill, 2014

- The Standing Committee on Human Resource Development (Chairperson: Dr. Satyanarayan Jatiya) submitted its report on the Juvenile Justice (Care and Protection of Children) Bill, 2014 on February 25, 2015.
- The Bill addresses children in conflict with law and children in need of care and protection. It seeks to replace the Juvenile Justice (Care and Protection of Children) Act, 2000.
- The Bill treats 16-18 year olds committing heinous offences as adults. One of the reasons cited for the Bill's introduction was an increase in heinous offences committed by 16-18 year olds. The Committee stated that this data compiled by NCRB was misleading as it was based on filing of FIRs and not actual convictions. It also pointed out that the percentage of all juvenile crimes in India was only 1.2% of the total child population.
- Article 14 of the Constitution states that no person can be denied equality before law and Article 15(3) permits the legislature to enact special laws for the protection of children. The Committee noted that the 2000 Act recognises the sensitive age of 16-18 year olds and is reformatory and rehabilitative in nature. Subjecting juveniles to the adult judicial system would go against the principle of Articles 14 (unequal treatment of 16-18 year olds) and 15(3) (goes against the objective of protecting children). The Committee also highlighted that the Supreme Court, in various cases, has said that children should not be tried as adults.
- The Bill states that a 16-18 year old committing a serious or heinous offence and apprehended after 21 years of age, will be tried as an adult. The Committee pointed out that this would violate Article 20(1) of the Constitution, which states that no person can be given a penalty greater than that which would have been applicable to him, under a law not in force at the time of commission of the offence. This means that at a later date the same person may face a penalty that is higher than what would be applicable to him at the time of commission of the serious offence. It noted that this provision goes against the right to equality and recommended deleting it.
- In case of heinous offences, the Bill requires Juvenile Justice Boards to conclude preliminary inquiries within one month from the date of first production of the child in front of the Board. The Committee said it was too short a period for proper investigation. It said that it could lead to a presumption of guilt and is contrary to the principle of presumption of innocence. It could also violate Article 14 and 21 of the Constitution.
- The Statement of Objects and Reasons (SOR) of the Bill states that it is being brought in to further adhere to the standards set by the United Nations Convention on the Rights of the Child. The Committee said the Bill was in violation of the Convention for differentiating between children below the 18 years, presumption of guilt during preliminary inquiry, etc. It highlighted the need to reconcile such violations with the Bill's SOR.
- The Bill and Act allow parents to surrender a child on the basis of social, emotional and physical factors beyond their control. The 2000 Act provides for a two month period for a parent to reconsider surrendering their child. The Bill changes this to one month. The Committee recommended reverting to the two month period.
- The Committee said that support to children cannot always end at the age of 18 years, once they have left institutional care. It recommended modifying the definition of aftercare to include financial or any other support to continue to children after leaving institutional care, till 21 years of age.
- The Committee observed that the Juvenile Justice Act, 2000 was not being implemented well. It recommended an increased focus on the implementation of the Act and uniform establishment of systems and procedures under it, by all agencies.
- The Committee expressed that it would be in favour of the Bill, once a few crucial aspects had been revisited.

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