

SIGNIFICANCE OF CHILD WELFARE COMMITTEE IN INDIA

Huma Faheem Ansari*

ABSTRACT

In India, unfortunately, a large number of children are living below the poverty line. Many of them are compelled to be in a vulnerable condition, these children are in utmost need of care and protection. To cater to the needs of such children, the establishment of the Child Welfare Committee was formulated and executed as per the provisions of section 27(1)¹ of the Juvenile Justice Care and Protection of Children Act, 2015. The Committee is responsible for providing guidance and advice to the government on matters about the welfare of children. It plays a vital role in protecting the children who need to be taken care of and protected. It promotes their welfare and prevents the commission of offenses against children. The CWC is the first line of defense for children in need of care and protection. It is often the only body that can provide them with the necessary support and assistance. It is also responsible for coordinating the various child protection services in the district. This article is an overview of the Child Welfare Committee and its significance in India.

Keywords: Child Welfare Committee, Functions of Child Welfare Committee, Children in Need of Care and Protection, CNCP

INTRODUCTION

Several factors are responsible for causing children to be a part of Child Care Institutions. According to a 2019 report by Make a Difference Foundation, 30% of children in Child Care Institutions come from broken families, 26% due to poverty, 18% are missing kids, 11% are runaway kids, 10% are abandoned, 6% are found working and 6% don't have any memory and 3% are children victims of crime. 35% of these kids are under six years of age, 53% of them belong to the age bracket of 6 to 12 years and 7% are between 12 to 18 years. As per the report, by April 2018 there were 9283 Child Care Institutions running across India with almost 3,14,702 children in them.²

*LAW GRADUATE.

¹ Juvenile Justice Care and Protection of Children Act 2015, s 27(1) accessed 24th January 23.

² 'About CNCP' (Make a difference, 2018)

<<https://makeadiff.in/cncp>> accessed 24th January 23.

The following children can be counted as those in ‘Need of Care and Protection

- Children living on the streets
- Orphan abandoned or helpless children
- Children engaged in labor
- Children who are abused
- Children who are subjects of sexual violence and trafficking
- Children engaged in Drug Abuse
- Children who are victims of natural disasters
- Children belonging to families with the vulnerable condition
- Physically Disabled children
- Mentally retarded children
- HIV positive children or otherwise affected children HIV positive children or otherwise affected children.³

What is a Child Welfare Committee?

The Child Welfare Committee is an individual body appointed by the State Government as per section 27(1)⁴ of the above-mentioned Act. The State Government by notification in the official Gazette constitutes one or more CWCs for every district or group of districts.⁵ The committee is constituted with the object to provide necessary care and protection to the children who need care and protection.

Composition and Term of the Committee

As per section 27(2)⁶ of the Act, the CWC has 1 chairperson and 4 other members. These members are appointed by the State Government as it may deem fit. Out of these members, at least 1 should be a woman and 1 member should be an expert regarding matters related to children.

³ Ibid

⁴ JJ Act 2015, n (1) s 27(1)

⁵ 'Child Welfare Committee' (Women and Child Development Department, updated2023)

<<https://wcdhry.gov.in/child-welfare-committee/>> accessed 24th January 23.

⁶ JJ Act 2015, s 27(2)

As per section 27(3),⁷ the District Child Protection Unit (DCPI) established according to the provisions of section 106 of the Act, shall provide secretarial support to the Committee.

Section 27(4)⁸ of the Act requires the members of the committee to be experts and have experience of at least 7 years in the field of medicine, social work, or education or they must be well-qualified practicing professions in the field of child psychology, law, social, social science or human development. As per section 27(6),⁹ the committee members shall be appointed for a maximum period of 3 years and not more than that. Section 27 (7)¹⁰ empowers the State Government to remove any such member of the committee after making necessary inquiries if –

- If he is guilty of misusing the powers granted to him by the Act. If he faces a conviction for a crime that involves moral violation and if he was not discharged of such conviction or pardoned, or
- If he fails to address the proceedings of the committee continuously for 3 months without any reasonable justification or if he fails to address lower than $\frac{3}{4}$ of the sittings in a year.

POWERS OF THE CHILD WELFARE COMMITTEE

By the provisions of section 29¹¹ of the above-mentioned act, the CWC has the authority to dispose of the cases related to the care, protection, rehabilitation, and progress of the child in need of care and protection.

Section 27(9)¹² empowers the CWC to function as a Bench of Magistrates. It has all the powers that are conferred upon a Metropolitan Magistrate or a Judicial Magistrate of first class by the Code of Criminal Procedure 1973.

Production of the child to the CWC As per section 31 of the Act

A child who needs care and protection may be presented before CWC by the following people-

⁷ JJ Act 2015, s 27(3)

⁸ JJ Act 2015, s 27(4)

⁹ JJ Act 2015, s 27(6)

¹⁰ JJ Act 2015, s 27(7)

¹¹ JJ Act 2015, s (29)

¹² JJ Act 2015, s 27(9)

Any local police or Juvenile Police or any other authorized officer, any public servant, any Child line unit or any registered voluntary organization, or any other government-recognized organization. Any social worker or government-authorized public-spirited person or the Child himself also can appear before the Committee.¹³

The child has to be produced within 24 hours of the time he was received excluding the travel time as required by Section 31 of the Act.¹⁴

As per sections 35¹⁵ and 38(3)¹⁶ of the Act, even the parents can produce the children before the child welfare committee.

The procedure followed by CWC in placing children into institutions

1. Once the child is received by the committee, it enquires into the matter and after studying the conditions in which he was presented before them, if required, the child is stated to be one in "Need of Care and Protection".
2. Determine the age of the Child so that the jurisdiction can be decided. If the child is an orphan and appears to be under six years of age, then he/she shall be sent to a specialized Adoption Agency as per section 36(1) of the Act.
3. Assign the case to any social worker, child welfare officer, or registered NGO to conduct social investigations through an order in Form 21.
4. Whenever needed, the child is sent to a Specialized Adoption Agency, Children's home, fit facility, or to any other person who is deemed to be fit to undertake the responsibility of the child during the process of inquiry.
5. And after the inquiry is completed, if the Committee concludes that the child lacks family support or any other support system, then, the child as suitable may be sent to a children's home, fit facility, fit person, or a foster family until appropriate means of rehabilitation are found or until the child completes the age of majority i.e. 18 years.

¹³Child Welfare Committee'(Women and Child Development Department, updated Feb 03)
<<https://wcdhry.gov.in/child-welfare-committee/>> accessed February 03.

¹⁴ JJ Act 2015, s 31

¹⁵ JJ Act 2015, s 35,

¹⁶ JJ Act 2015, s 38(3)

6. Rendering the child again to the parents or guardians or family after reaffirming various reports which also includes the social findings reports giving out the details of the circumstances of the family of the child.
7. The Committee also gives a follow-up date to the child which shall not exceed more than a month from the date of the disposal of the case and also the child is directed to follow up once every month for the first 6 months of the disposal and later every three months for a minimum period of one year or till the Committee thinks fit.
8. The investigation by social workers has to be completed within 15 days so that the committee can pass the execution order within 4 months from the date when the child was presented before them.¹⁷

The CWC deals in a 'Child-friendly' manner with the children in question

The child in question has to be dealt with in a very child-friendly manner by the officers or homeowners concerned.

A person who is un-associated with the matter shall be restricted from being in the room during the sitting, no person shall be allowed to enter the sitting room unless the child is at a comfortable level with such a person. The ambiance should not appear to be like a Courtroom.

The Child should be able to have a face-to-face conversation with the Committee members. The members of the committee or even the chairperson should sit on an equal platform with the affected child. In case of a child who is not presented before the CWC, then the CWC itself shall make access to such a child at a convenient place for the child. Body language, gestures tone of voice should be such that a great child should feel relaxed during sitting. They should refrain from using accusatory or negative words that can adversely affect the mind of the child.

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Functions of the Child Welfare Committee:

Section 30¹⁹ of the above-mentioned Act has conferred certain functions and responsibilities upon CWC. They are as follows.

¹⁷Faq on CWC', (Satyarthi movement for Children, Feb 2020) <<https://satyarthi.org.in/wp-content/uploads/2020/02/faq-on-cwc.pdf>> accessed 25th January, 23.

¹⁸Ibid 8.

¹⁹ JJ Act 2015, s 30

1. Taking cognizance of the affected child and receiving him whenever presented before the Committee.
2. Conducting necessary inquiries on all subjects that are related to or affect the welfare and comfort of the children under this Act.
3. The Committee directs the Child Welfare Officers District Child Protection Unit or probation officers or NGOs involved to carry out social inquiries or investigations and present a finding before it.
4. It conducts inquiries of a person and accordingly declares him fit to take care of children in need of care and protection.
5. It arranges the admission of the child to foster homes.
6. Assuring safety, caution, applicable recuperation or reinstatement to the children grounded on the child's care strategy and providing necessary guidelines to parents/guardians or children's homes fit installation or to whomsoever, it may be concerned.
7. The Committee selects registered institutions to allot places for every child who needs institutional support. These institutions are selected depending on the child's age, gender, physical or mental impairment if any, the intake capacity of the institution, and other requirements as may be applicable.
8. The Committee visits such foster homes or observation homes etc at least twice a month with the object of examining the domestic facilities provided to the children at such places. Later, it makes necessary recommendations to the DCPI and the State Government to upgrade the facilities provided to these children in such institutions.
9. In case, when the children are surrendered by their parents to the committee, then, the provisions of section 35(1)²⁰, the committee certifies the execution of the surrender deed. It also gives enough time to the parents, so that they can review their decision.
10. It makes sure that every attempt is made for the re-union of deserted or lost children to their families following the procedure, as may be specified.
11. If the child is an orphan or a surrendered or deserted child, then the committee declares such child as eligible for legal adoption after conducting necessary inquiries.
12. Whenever the committee becomes aware of any such child who needs care and protection but is not presented before the committee by anybody, then the committee

²⁰ JJ Act, 2015, s 35(1)

itself reaches out to such child subject to the condition that at least 3 members of the committee should agree.

13. The committee fulfills the necessary task for recuperation of sexually crushed children who are stated as children in need of care and protection by the local police or Special Juvenile Police Unit or according to the provisions of the POSCO Act, 2012.²¹
14. It also deals with the cases that are referred to them by the Juvenile Justice Board following section 17(2)²² of the Act.
15. The committee coordinates its activities with the police, medical department, labor department, or other relevant organizations engaged in providing care and protection to children with the support of the DCPI or the State Government.
16. The Committee conducts inquiries and gives necessary directions to local police, DCPI Child line units, etc, in cases of the abuse of the child in any Child Care Institution.
17. It provides legal aid to children especially those who are victims of physical abuse.
18. Similar other functions and liabilities, as may be specified.

Recent Prominent Orders given by Courts in matters related to Child Welfare Committee

1. Pappu Bawariya and Anr vs District Collector Civil Station and Othrs 2023.²³

On 6th January 2023, the Kerala High Court released an order stating that “Children Helping parents in Selling Articles Not Child Labour”²⁴

On November 22, two kids were picked up by the local police²⁵ and were produced before the CWC alleging that they were selling pens and thus it amounts to Child Labour²⁶. The kids were then sent to the shelter homes in Delhi.

Kerala High Court passed an order²⁷ for their release stating that being poor is not a crime and how come the activity of selling articles to help their parents amounts to child labor. The

²¹ JJ Act 2015, s 30

²² JJ Act 2015, s 17(2)

²³ LiveLaw(Ker)10. Athira Prasad, 'Children helping parents in selling articles not amount to labour'. (LiveLawNews, 8th Jan 23)

<<https://www.livelaw.in/news-updates/children-helping-parents-in-selling-articles-not-child-labour-kerala-high-court-orders-release-of-children-from-shelter-home-218387>>accessed 25th January 23.

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

²⁷ 'Pappu Bawariya and Anr vs District Collector Civil Station and Othrs', 'WP(C) NO. 41572 OF 2022 (V)', (LiveLaw, 6th January 23) <https://www.livelaw.in/pdf_upload/2157004157220224-452792.pdf>accessed 26th January 23.

Children are entitled to education, but even if they loiter on the streets selling articles, neither the police nor the CWC can take such children into their custody away from their parents.²⁸

2. Junaid vs State of UP²⁹

In July 2021, the Allahabad High Court has issued directions and a timeline regarding the disposal of bail applications in cases related to the POSCO Act, 2012 observing that delay in such matters may affect the liberty of the citizens.³⁰ The Allahabad High Court ordered action against the chairperson of CWC due to failure of complying with these directions in the case of a 12-year-old Sexual Assault Victim. The High Court stated that the guidelines issued by the Court have to be strictly followed in all cases of the POSCO ACT.³¹

Conclusion

The Child Welfare Committee plays a vital role in the prevention of child abuse and neglect. It works closely with the police and other law enforcement agencies to investigate cases of child abuse and take action against the perpetrators. The CWC also works with the media to create awareness about child abuse and sensitize the public about the need to protect children. Thus the existence of the Child Welfare Committee is extremely significant for the safe existence of children who are not so privileged in society.

²⁸ Ibid

²⁹ '2021 (6) ADJ 511', 'Pravin' (LiveLawNews 14/12/21)<https://www.livelaw.in/pdf_upload/junaid-case-allahabad-hc-406242.pdf>accessed 26th January 23.

³⁰ 'Areeb Uddin Ahmed', 'Allahabad High Court lays down time limit for saturation of bail pleas in POSCO cases' (Bar and Bench, 14th July 21)<<https://www.barandbench.com/news/litigation/allahabad-high-court-timeline-maturation-bail-plea-pocso-cases>>accessed 27th January, 23.

³¹ 'Sparsh Upadhyay', 'Allahabad High Court calls upon local police and CWCs to strictly follow Junaid case directions on the rights of the victims', (LiveLaw 27 November, 21)<<https://www.livelaw.in/news-updates/pocso-allahabad-hc-local-police-cwc-strictly-comply-junaid-case-directions-rights-victims-186439>>accessed 27th January, 23.