

Children's Home Or Children's Jail (Juvenile Justice System In India)

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Abstract: *Children are the most important asset of any nation and they are the crucial element for the prosperous of a nation and it depends on their holistic development, care, and protection given to him. When they are neglected or abused, their ethical, moral and intellectual growths are curtailed. The rights and development of children are paramount for an inclusive and equitable society. The Constitution of India recognizes the vulnerable position of children and their right to protection. The Constitution of India contains provisions for survival, development, and protection of children. Therefore, to protect children's rights a separate system called juvenile justice system is established so that juvenile crime and adult crime can be segregated because both can't be treated in the same manner. The Government of India passed Juvenile Justice Act in 1986 to provide the protection and safe place to the children which was later amended in 2002, 2006 and currently new Juvenile Justice Act 2015 is in force. Under Juvenile System there are two institutions which came under this one is Observation home meant for Children in Conflict with Law and another one is Children's home meant for Children in need of Care and Protection. In this paper, the discussion is mainly on Children's Home.*

This paper tried to look on a different type of vulnerability of children under Juvenile system and what are the backlogs of the system. Also, this paper highlighted why children home under Juvenile System is termed as Children's Jail. This paper is written on the basis of the experience of the writer from Dongri Children Home, Mumbai as being a student social worker.

Keywords: *Children, Vulnerability, Holistic Development, Children Home, Children's Jail*

The term juvenile emerged from the Latin word Juvenis, which means Young. A Juvenile or child means a person who has not completed eighteen years of age. A boy or girl under 18 years of age is a juvenile or child under section 2(k) of JJA 2000. Children are an important asset of the nation and development of the children affect the nation development very much. And that's why expenditure on children's development is considered as an investment whose benefit will be achieved later. Stating the importance of children in a nation development, Kofi A. Annan, the Secretary, general of UN observed that 'there is no trust more sacred than the one the world holds with children, there is no duty more important than ensuring their rights are respected and their welfare is protected... Thus, there is a need to give specific importance to children in the society. Children are valued assets of a nation.

In India, until the middle of the nineteenth century, no social recognition was given to the child and hence the

sufferings of children drew very little attention. The years following 1950 witnessed both governmental and non-governmental initiatives that contributed to the development of a more pronounced juvenile justice system. To address the increase in neglected and delinquent children, the Indian government passed a Central Children's Act (CCA in 1960). The CCA provided for the care, protection, and treatment of juveniles, and made it applicable in the territories under direct central government rule.

By 1986, almost all states had passed their own child legislations but these acts lacked consistency in terms of defining delinquency, court procedures, and institutionalization practices. The Indian government thus felt the need for a children justice scheme that could be applied throughout the country and this is how Juvenile Justice Act of 1986 substantiated. With the enactment of JJA 1986, two distinct types of machinery were set up to deal with "neglected

juveniles” and “delinquent juveniles”. JJA 2000 for the first time provided for juveniles in conflict with the law and “children in need of care and protection” to be kept separately pending their inquiries. This segregation aims to curtail the corruption of the innocent child from the influence of the criminal juvenile. The JJA was considered a unique piece of social legislation intended to provide care, protection, treatment, development and rehabilitation for neglected and delinquent juveniles as well as the adjudication of matters related to the disposition of delinquent juveniles. Since the children’s Act 1960, many development processes happened and recently Juvenile Justice (care and protection of children) Act, 2015 is implemented. But there is a long way that has to be achieved. Only introducing laws would not be going to solve the problem and without true intention and proper implementation of laws the objectives couldn’t be achieved.

The JJ Act, 2015 states that it is an act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, here in under and for matters connected therewith or incidental thereto. According to this, the law has stated clearly that disposal of matter will be in the best interest of the children through child-friendly approach. In this way, the whole concept of Children’s Home under JJ system is to provide a place of safety for those children who are not with their parents and in need of care and protection. But this concept is not much incorporated through the practice. If we look the environment of children’s home we will find that concept of child-friendly is missing. The condition of the home is such that it is being termed as children’s Jail. The homes are lacking with proper and basic facilities and sad part of it is that no one cares about it. Though the current world talks very much about child rights but in reality, no one cares. The current example can be seen the exploitation of children in homes and children living in conflict zones like children in Kashmir, children in Syria and so on. Here the meaning of exploitation is not only limited to physical exploitation but also exploitation by environment made for the children. The act also talks about catering basic needs of the children through proper care, protection, development, treatment, social re-integration, but very little attention has been given towards this. The environment of children’s homes is making the children more vulnerable. The physical abuse from the attendant, home monitors challenge the concept of protection and caring. The author would like to site an example of a child from children’s home who regrets after coming here though his own home environment was not very much friendly or comfortable for him. There was a child from Delhi of 14 years of age who was very good in his education. He left his home because his step mother does not love him and always give prefer to his own children over him. The child had to do all household activities and was not allowed to go outside for play and moreover he was not allowed to do his study at home also. This child was regretting himself after coming here that why he left his home and said his home was still better than

this home and he will never ever leave home in future. A conversation was made then with his father where he clearly rejected his child and said he will not accept him but still his child was ready to go home because he had no other option. There is one more very interesting story of a 13 years old child. The child was brought up by some person who was not his father and he was told that his parents had died when he was very young and hence he was brought up by that person. Initially, he behaved very well and basic education was provided to him. But later all the household activities were handed over to him to do and he was not allowed to either play or study. If he violates these provisions he was badly beaten up. Also from time to time he faced mental and physical trauma. The child was so intelligent and was seemed like born leader. He has the power to lead the team and remember everything that he has learned in the school. The level of intelligence can understand that he himself made three police complaints against his illegal parents and finally with the help of child line he was admitted to children’s home. If we do not take care of such child then we are wasting our talents who may contribute significantly to the nation development.

The power structure in the society is also responsible for such condition. The common thinking is that children from marginalized, oppressed and economically poor family come to this home and thus they are completely ignored by the society. If the children from powerful and rich family too live then the situation of the home might be different. Also, children living in homes felt that they are living in Jail because they are not allowed to play outside the room in which they live. Also, that room is kept locked at night. In this situation children are felt bored and as they don’t have to do anything they start doing unethical things which are very obvious for anyone living in such condition. The question is not about the facilities but how the environment is created for the children because the environment and the system play a very important role in the behaviour of the person living in that system and environment (System and Ecological Theory). According to Urie Bronfenbrenner who gave the Ecological theory, environment plays a very important role in shaping the thoughts and developments of an individual. Each and every thing that happens in a child’s life affects his/her growth and development. The main reason why children cut their hands or another part of the body is that only. No doubt many children came from their home in search for a better place but they regret when they came to this home because here they feel that they are living like prisoners having no access to play but to sit and sleep in a single hall only. And if they do some mischievous they are badly beaten up by the attendant which prove for them double torture and affect their mind very much. In fact, the home condition is responsible for violence among the children and if we do not look and care for this the future of these children are going to be ruined and we may lose many intellectuals who can be part to some extent in the development process of the country.

To solve this problem and to achieve the purpose of JJ system we must make the environment of children’s home such that children can get space to play and sit in an open environment when they get free from classes. If this is done many another form of violence at home may also sort out automatically. For example at night due to no work children

started quarreling without any reason or cuts their hands, so if we are able to provide enough space then they may use their spare time in playing and other activities. So we can keep them busy and they will not get time to do stupid works. The author would recommend allowing the children to play outside their home also when they wish to play and if the number of children is so much which can't be controlled in that situation we can divide the children into groups and one group at a time will be allowed to play and in this way we will be able to control the children and many mischievous activities might get solved as children will be engaged in other activities.

Other than the above the act is also lacking in the way of implementation. The provisions of the act are not complied by the concerned authorities. The term best interest which very subjective in term is not fully understood by the functionaries of the home. Also, there is need to sensitize them more. Even after too much development in Juvenile system, the questions that remain pertinent are 1. Are legal provisions for the protection and development of juveniles and children being implemented in letter and spirit? 2. Are the police and other stakeholders alive and sensitive to problems besetting deprived children and juveniles? 3. Are institutional services, as envisaged under the law, organized and functioning effectively? 4. Are the methods of re-integrating the institutionalized children into communities adequate?

If we look and analyze the situation and condition of the home we will find that the juvenile system remains silent on above questions. The motive behind the juvenile system was to protect the children rights but in reality, the rights of the children are exploited.

Despite the elucidation of comprehensive beneficial schemes for children, implementation is defective. Appropriate training is absent; there's tussle in granting bail to the delinquents, serious accountability concerns, and overall apathy. There are unprecedented incidents of police brutality and abuse in the Observation Homes, along with incompetence and delay on the part of a probation officer. In brief, it can be said that juvenile justice system in India has gained momentum but attitude and perception towards Child Rights needs a change. On the legislative side, a lot of work has been done in India but implementation part still requires improvement. The laws enacted require being effectively

implemented to achieve the desired goal of the welfare of the children. The society must encourage children's participation in matters affecting their rights as services to the children are no longer a charity. Every stakeholder who is responsible should work honestly and in the best interest of the children. And also different stakeholders working with juveniles should go through a proper training before they take the charge of their respective positions. Moreover, the homes under juvenile should not be like jail, it should be like a home. Therefore, we must keep in our mind while designing the home the concept of child-friendly approach.

REFERENCES

- [1] Adenwalla, M. (2006). Child Protection and Juvenile Justice System. Childline India Foundation.
- [2] Bowlby, J. (1969). Attachment. Attachment and loss: Vol. 1. Loss. New York: Basic Books
- [3] Bronfenbrenner, U. (1992). Ecological systems theory. Jessica Kingsley Publishers
- [4] Cicourel, A. V. (1995). The social organization of juvenile justice (Vol. 36). Transaction Publishers.
- [5] Das, B. K. (2016). Juvenile Justice System in India. PARIPEX-Indian Journal of Research, 5(5).
- [6] GoI (1986). The Juvenile Justice (Care and Protection of Children) Act
- [7] GoI (2000). The Juvenile Justice (Care and Protection of Children) Act
- [8] GoI (2016). The Juvenile Justice (Care and Protection of Children) Act 2015
- [9] Mitra, N. L. (1988). Juvenile delinquency and Indian justice system. Deep & Deep Publications.
- [10] Scribd. (n.d.). An analysis of Juvenile Justice in India. Retrieved from Scribd: <https://www.scribd.com/doc/209832714/An-Analysis-of-Juvenile-Justice-in-India.docx>
- [11] U. N. (1980). Juvenile Justice: before and after the onset of juvenile delinquency. Prevention of crime and treatment of offenders. Venezuela.
- [12] <http://www.dnaindia.com/india/report-14-notable-amendments-to-the-juvenile-justice-act-2084147>