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**Juvenile Homes- Whether a place or reformation or birthplace of heinous
criminals? An analysis**

Darshini. S

INTRODUCTION

India is a home to almost 19 % of the World's children. More than one third of the country's population is below 18 years who are considered as juvenile legally. The children are considered as the future productive citizens of the country; therefore, it is necessary to make them healthier, educated, protected and well developed. So, children are the pillars of future India. So, when the children commit any offence the offensive act is referred to as abnormal activities in the eyes of the society. Therefore, juvenile delinquency refers to those children who commit minor crimes in their tender ages that are below the age of 18.

The Juvenile Justice Act in India was passed in the year 1986. However, several issues like increasing incidents of abuse of children in the institutions, inadequate facilities for children, quality of care and rehabilitation measures in children homes, lack of education, unqualified and irresponsible staff led to the repealing of the existing Juvenile Justice (Care and Protection of Children) Act, 2000. It was re-enacted in the year 2015 with few amendments.

The Juvenile Justice (Care and Protection of Children) Act, 2000, which is referred as the primary legal framework for juvenile justice in India. It provides for a special approach towards the prevention and treatment of juvenile delinquency and provides a framework for the protection, treatment and rehabilitation of children in the purview of the juvenile justice system. This Act deals with four different categories of juveniles.

- Abandoned children¹/ orphan- Children who are without parents, who have run away from their home or children who have migrated from different places².
- Secondly, children those who need care and protection against the society³.
- Third category deals with children who are in conflict with law and when their case is pending, they are sent to juvenile homes for observation⁴.
- The last category of juveniles is those who have been convicted for a crime and have been ordered by the court to send them to special homes for three years⁵.

Under the Act various children homes have been established in many districts by the state government, either by themselves or by the nongovernmental organizations or voluntary organizations for the care and protection of these children.⁶ The Act specifically provides provisions for child care institutions which mean children homes, open shelter, observation

¹ The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), s. 2(1)

² Id s. 2(42)

³ Id s. 2(14).

⁴ Id s. 2(13).

⁵ Geeta Chopra, Child Rights in India: Challenges and Social Action, 148 (Springer Publication, 2015)

⁶ The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), s. 2(19)

homes, special homes, place of safety and specialized adoption agencies⁷. The observation homes are established under the Act and is placed under the department of Women and Child Development of states, which was established under the Ministry of Women and Child Development.

So long a juvenile stays in these observation homes and he loses each of his rights day by day. He is not only made the victim of many wicked acts but is also compelled to indulge in commission of crimes. Although judiciary has always insisted that children should not be made to stay in the observation homes for too long. And the occupations offered to the child in such homes should be intended to bring about adaptability in life, self-confidence, and development of human values as mentioned in *Sheela Barse V . Secretary, Children's Aid Society*⁸, yet various reported incidents reveals a different story altogether.

CONDITIONS OF A JUVENILE IN A JUVENILE HOME:

It is pertinent to mention that observation homes are established to provide care and protection as well as re-integration, rehabilitation and restoration of the juveniles in conflict with law and children who are in need of care and protection. Services to the child in these homes include physical and custodial care, medical treatment, recreation and rejuvenation. These homes should try to avoid an atmosphere of fear and repression to the juveniles. The conditions of a juvenile in an observation home is as follows,

FAMILY BACKGROUND

Family plays an important role in making juvenile into a delinquent. Broken families and childhood, lack of parental love, affection and security, lack of family ties and bond, divorce and separation of parents are some of the factors that contribute in ruining the life of a child. As per the report of the 'Empowerment of Children and Human Rights Organization' (ECHO)⁹ at the observation home of Bangalore, it was revealed that a majority of 94 boys were not under proper parental care. And almost about 89 % of them came from poor economic background. The report states that such children are school dropouts and come from families below the poverty line, those people are facing economic stress in their day-to-day lives are forced to work at a young age where they get in touch with anti-social groups and migration is also a factor that leads children to

⁷ Id s. 2(21)

⁸ AIR 1989 SC 1278

⁹ 'Root Causes of Juvenile Crimes': A study conducted by the Centre for Juvenile Justice, Bangalore in collaboration with the Department of Women and Child Development and the UNICEF, available at <http://www.slideshare.net/HAQCRCIndia/root-causes-of-juvenile-crimes-a-study-by-echo-centre-for-juvenile%20justice-bangalore>

delinquent behavior. Study shows that broken childhood and broken homes are an important factor behind children turning to do crimes.

ASSAULT

Once a child is taken into custody for committing a crime, he is placed in observation home while his trial is pending. While he is in observation home he receives two types of assault, first which is physical in nature and the second is sexual assault.

PHYSICAL ASSAULT

Torture, usually in the form of severe beatings with fists, lathis, or other instruments, and kicking is a common feature of police treatment of street children in specific.¹⁰ There are plethora complaints and cases where a juvenile is beaten up by the police authorities as soon as he is brought in an observation home and later by the senior inmates. They are forced to accept their involvement in many criminal cases. Further an NGO representative and Human Right Activist stated that 'For their reports and to make money, the police lock up a few children and majors every day, only to release them later after taking all their money and/or beaten them up.

SEXUAL ASSAULT

Sexual assault is the next type of treatment meted by the children in observation homes. Rajkot incident is the incident which shook the society in large, where a 14 year old juvenile was sexually assaulted by four boys at the observation house in Rajkot. It has been found out that the main culprits are the staff members including caretakers, security guards, etc in the observation homes. Child rape is a common feature in homes, where female face more physical and mental stress. A 2013 report by the Asian Centre for Human Rights (ACHR), states that juvenile homes have become India's hell holes where the inmates are subjected to sexual assault and exploitation, torture and ill-treatment, apart from being forced to live in inhuman conditions. It highlights 39 cases of repeated sexual assault on children in juvenile justice homes and the National Commission for Protection of Child Rights has reported and registered 100 plus complaints / cases relating to child abuse.

CRUELTY BY OTHER INMATES

Those juveniles, who are not released on bail by the Board, are sent to the observation home, pending the trial. The juveniles who were alleged to have committed a serious offence were also housed in observation homes during the period of trial, which affect the mindset of junior inmates or those who were not party to serious offences. Those juveniles who are alleged of committing offence for more than once or does it for the second time, takes the position of senior inmates. Therefore, in the observation homes there are two categories of inmates, juniors and seniors.

¹⁰ Arvind Ganesan, Police Abuse and Killings of Street Children in India, 30 (Human Right Watch, 1996).

Junior inmates are tortured, abused and are ragged by the senior inmates which causes mental torture.

HYGIENE IN JUVENILE HOMES

The other condition juvenile in an observation face are hygiene in juvenile homes, according to the study the food supplied by the government to the homes i.e. three meals a day is considerably a meager portion which is hardly nutritious and inadequate. The health condition of the children is a major cause of concern.

JUVENILE JUSTICE BOARD

Juveniles those who are accused for a crime are brought before the Juvenile Justice Board under the Juvenile Justice (Care and Protection of Children) Act 2000. Under this act and provisions of the Criminal Procedural Code, the children are not to be taken to a regular criminal court. The main purpose of a separate JJB is to have socio-legal rehabilitation and reformation and not punishments. The main purpose is to reform and rejuvenate. The aim is to hold a child who is capable for the criminal activity to reform, but not through punishment but through counseling the child to understand their actions and persuade them away from criminal activities in the future. The Board is expected to rapidly dispose of an inquiry so that the juvenile facing charge is not unnecessarily disrupted for a long period and his rehabilitation process starts at the earliest.

The Board consists of judicial magistrate of the first class and two social workers, at least one of them should be a woman. Juvenile Justice Board is meant to resolve cases within a four months period of time. In most circumstances the juvenile can be released on bail by the JJB by considering the seriousness of the crime committed and the number of times the child has committed an offence earlier i.e. considering his criminal history . The JJB is a child-friendly space that should not be intimidating or overwhelming for the children.

The Amendment of 2015 has brought major changes in the functioning of the Board which includes, determination of those juveniles who are in the 16-18 age group to assess if a heinous crime was committed as child or an adult. After such determination physiologist and social experts in human rights has to be consulted. These changes are expected to help in the speedy trial and disposal of cases against the juveniles.

POLICY RECOMMENDATIONS FOR JUVENILE HOMES:

- For the complete improvisation of the whole juvenile rehabilitation process observation homes require more probationary officers and counselors for better dealing with the juveniles.

- Juveniles under 16 years, brought at the observation homes should be given more care and guidance as they can be reformed easily, they should be provided with education.
- There should be frequent chances to make them meet their parents, families and guardians. This should be a mandatory practice followed in all the observation home, interaction with the family is a must. The parents should also have a chance to meet and interact with the probationary officer to discuss about their children.
- The probationary officer should obtain all the information from the parents and analyze the real reasons which are troubling him; the sessions for rehabilitation should be made in accordance with the needs of the child.
- Lots of recreation activities and indoor games which involve application of mind shall be encouraged at the juvenile homes. It is important to inculcate any kind of hobby in the juveniles.
- There should be proper follow up programs; this is the best solution for reforming the juveniles in truest manner. This includes keeping a track of the juvenile for a good amount of time once he is released out of the juvenile home.
- Another important requirement for effective rehabilitation is to have two separate places for the first time offenders and repeat offenders, as the first time offenders may fall prey of the bad influence.

CONCLUSION

Children are the future leaders of the nation. They do make mistakes that may be purely unintentional. They are not hardcore criminals but mere miscreants who are unaware of the consequences of the act. The legislature demands them to be observed and rehabilitated under the 'observation homes. In these homes, the children who have become juveniles are observed but they are not rehabilitated. Their observation is under the police officials, who do not provide them the space for rehabilitation or rejuvenate themselves. The truth is they are ill-treated by the police officers and senior inmates. They aren't provided proper and nutritious food and hygienic environment. Acquitted or convicted by law, a juvenile is not taken by the society with dignity; this is the main reason for them to repeat the offence again with aggression. Amending the legislation does not solve the current issue. The legislation provides for creation and development of observation homes with special and trained police officers and a Board to ensure juvenile justice through adjudication. Even then there is no change in the machinery of making more 'criminals. Reforming the juveniles should be taken as a serious issue by the legislatures, administrators of observation homes, parents and society as it is just the beginning and not the end.