



## **Children in Need of Care and Protection Under Juvenile Justice Act: Education and concern**

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### **Abstracts**

*The present paper has been conceived and formulated on a very large scale of rehabilitation and restoration of children in need of care. This relates to their identity, safety, security, and freedom. Rehabilitation of juvenile children within the family, having same socio-economic and cultural status, where the child had earlier been, is one of the most essential aspects under Juvenile Justice (Care and Protection of Children) Act, 2015 for their empowerment. The Juvenile Justice Act proscribes the child being placed in any other environment unless the previous environment 'is not in his best interest'. The focus of the paper is to understand the nuances of the policies and programs and locate the gaps which weaken the whole system of juvenile justice and the empowerment of children. The findings suggest that there is a substantial need to strengthen the alternate system of functional children's care homes.*

**Key Words:** *Inclusion, Restoration, Education, Children in Need of Care and Protection, Juvenile Children, Juvenile Justice Act,*

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### **Introduction:**

Education between the age of 6-14 is not just a right, rather it is an agency of life which nurtures an individual. As a consequence, any educational transformation is also seen in terms of the social change it brings. Thus, they must be seen in co-terminus terms, impinging upon one another. Comprehending the ideas and needs of education is necessary to understand its interrelated elements that affect human life. This is why, as a continual ongoing process, education relates and applies to the physical, biological, and psychological realm of a person and ultimately becomes relevant to human social life. If seen in the context of the totality of the existence of a person, it suggests many distinguishable patterns which remain interrelated and display their own unique characteristics and properties. As a result, human life cannot be viewed in isolation from its natural surroundings.

The education of children in need of care and protection under the Juvenile Justice Act in India is a major concern for at least three major reasons. For starters, there are several legal issues associated with it, as well as the significant task of ferrying them to educational institutions for their education. Secondly, due to improper looking after of such children due to a shortage of manpower on the one hand, and the lack of proper infrastructure for their education within the premise, where they remain confined, it provides rare access to these children. Third, the proper direction of their education, whether on or off campus, where they can grow with other children, is frequently a major concern.

### **Juvenile Children: Education and Concern**

There is no denial of the fact that education is one of the most effective tools of empowerment which guides and provides directions for an individual to grow in their lives. The first learning



institution in this context is the 'family,' which is thought to be the best place for any child to grow holistically. This is because the family provides natural rights for children to be cared for and loved by their parents. In turn, parents, as their responsibility for the upbringing, provide every sort of comfort for their proper development. Therefore, it is often supposed that the best present any parent can provide for their children is the security and peace of mind which will lead them to develop a confident sense of self as well as an inspirational role model. Karen (1994) suggests that children feel more secure when they understand that their parents care for their welfare both emotionally and physically. This understanding exists regardless of whether the parent physically remains with the children's children's children's children. Thus, children, in the context of their parents, understand that someone older, wiser, and competent is there to care for them and stand by for their protection and care. However, there are many children who may be classified as unfortunates because they do not always have the opportunity or privilege of living with their families, either temporarily or permanently, for various reasons. In fact, in most traditional societies, such as India, family-based care and parental responsibility are quite common. However, there are millions of children across the globe who are orphans and do not have their parents or any extended family members who can provide them with family-based care. As a consequence, such children often get separated and isolated for several similar reasons. Many of them stay with such families, who often pose a threat to their lives due to their being vulnerable. This is why all such children come under the purview of the immediate need for care and protection.

No doubt, the state has the responsibility to provide them with protection, support and all sorts of assistance in order to make them live a respectable life. Despite several legal provisions, however, such children frequently find themselves in a state of flux as they are involved in violence, abused, neglected, and exploited due to a lack of proper safety mechanisms that can monitor their vulnerability. It is believed that proper education can help them overcome this vulnerability, so their education is always a concern for educators. In the case of a juvenile, there is a significant amount of continuity between the juvenile as an individual, as a member of a family, and as a member of the society to which they belong. The shared ideas, resulting from interactions, reach from society to the community, the family and up to the individual. This may be seen in the opposite direction also. Juveniles are frequently observed to come from a split family. This means that either they live with each of their biological parents or are put into care homes because their parents either get separated, divorced, marry separately or never marry. In all of these cases, the care needed for a child to grow up mentally and physically healthy is unavailable, leaving the child vulnerable juvenile behavior. Thus, children in split families live in isolation. They even grieve, feel angry, sad, confused, afraid, helpless, hopeless, lonely, lost, rejected, and worried due to the loss of their intact family. Such children often remain at developmental risk in the context of the issues of attachment, self-esteem and capacity for healthy interpersonal relationships. Garrity & Baris, (1994) suggests that those born and brought up in a high - conflict situation often remain at an increased disadvantage. The term high-conflict situation refers to the characteristics of continuous parental hostility and conflict for a prolonged time. Such children are constantly traumatized by the circumstances in which they so-called caregivers engage, while the parents, on the other hand, are unaware of how their behavior harms their children. Thus, children are often pulled apart by their parents' ill will and become exquisitely sensitive to loyalty issues. They struggle to deal with family conflict, school, neighborhood, and care-home arrangements, and peer pressure as they grow up. They often show aggression, violence, become irritable, nervous, fearful, or panicky in their behavior.

### **The state and juvenile children**



The state is supposed to provide such vulnerable juvenile children, the models of alternate care, where they can be placed for their rehabilitation in their own family or in their extended family. Actually, alternate care is a system on a broad range of services such as education, food, health checks and so on for such children whose parents do not have any means to provide them with adequate care and support. No doubt, these may differ in forms and dimensions from state to state. South East Asian countries demonstrate that kinship care and extended family members provide alternate care for such children in the absence of parental care. Some other states provide alternate care for such children in the form of institutionalisation, or care home services, which are formally legitimized by government support and recognition. Other types of alternative care, such as adoption centers, foster care centers, and community-based care centers, are also represented. However, it demonstrates that such alternative centers are used to a very limited extent. It is also observed that the number of children entering into institutional care is rapidly increasing, especially in South Asian countries.

The process of restoration of children in need of care and protection, also exists in different forms of institutional mechanisms, such as foster care homes and group homes. Aside from that, alternative family-based care, such as adoption and sponsorship, provides such children with care and protection. Secondary sources show that children in need of care and protection are frequently 'in conflict with the law.' We do not find any substantive, clear understanding of the pragmatic issues relating to children in need of care and protection, even after the 1986 policies on education in India. This is because there is a dearth of research into the education of juvenile children in India, which does not provide previous experience of dealing with such children. Without a doubt, the lack of experience in managing child care homes, the majority of which remains under-equipped, provides no opportunities for such children live a peaceful and respected life. As a result, it has been discovered that these child care homes are mostly ineffective and do not serve the intended purpose. The number of such children has increased dramatically during the pandemic and post-pandemic periods. As a result, the state's role in their rehabilitation has taken precedence. This is because of the Juvenile Justice (Care and Protection of Children) Act, 2015, states that

*“Every child in the Juvenile Justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this act, unless such restoration and repatriation is not in his best interest.”*

(Juvenile Justice (Care and Protection of Children) Act, 2015- Chapter 2, Section 3 (xiii), p-8)

The prime objectives of the juvenile justice are to provide protection of the child. The act, in this regard speaks that,

*“the restoration and protection of the child shall be the prime objective of any Children’s Home, Specialized Adoption Agency or open shelter.”*

[Juvenile Justice (Care and Protection of Children) Act, 2015- Chapter 7, Section 40 (i), p-22]

Even, the juvenile justice in context of the processes of rehabilitation considers the identity of an individual and speaks that,

*“the process of rehabilitation and social integration of the child under this Act shall be undertaken, based on the individual care plan of the child, preferably through family based care such as by restoration to family or guardian with or without supervision or sponsorship*





*or adoption or foster care.”*

[Juvenile Justice (Care and Protection of Children) Act, 2015- Chapter 7, Section 39 (i), p-21]

Thus, individuality and identity are often maintained through ‘family-based care’. However, it should not be possible only through institutional care homes as it cannot ensure the socio-psychological protection that a child receives in a family. UNICEF, (2006) & ICPS, (2014-15) observe that it is unfortunate that there are several children who do not get the privilege of living with their families, either temporarily or permanently.

### **How effective are juvenile children's care homes?**

The above Act suggests that responsibility during the custody period of children under the Juvenile Justice (Care and Protection of Children) Act lies with the State. Therefore, the responsibility of the education of juvenile children under custody also comes under the purview of the Juvenile Justice Board, either directly, or, indirectly, to those who are authorized as the custodians of such children by the Juvenile Justice Board. It has been discovered that children in need of care and protection under India's Juvenile Justice Act frequently face a variety of problems and challenges, including sexual exploitation. Such problems and challenges more often remain intense once we try to look at their situation in the state of Bihar, in India. This is because it has come to light that children in authorized care centers in the Muzaffarpur district of Bihar have been sexually exploited, trafficked and even cases of murder have come to light in a study conducted by the Tata Institute of Social Sciences. Similar exploration is reflected in some other federal states of India, such as Jharkhand.

The existence of juvenile care homes in India suggests that kinship care and institutional care homes are the most common forms that exist. In fact, the kinship care system is widely prevalent and practiced, in South Asia, where extended family members take responsibility for arranging services for the child in the absence of parental care. Even in India, a large number of children are taken care of by their extended family members. This helps children to maintain networks of sociocultural relationships and identity. Institutional care homes, which are common in India, are used as a primary response for children who do not have parental care. According to CRIN (2007), such institutions throughout South Asia are reeling from the negative impact of institutional care homes and challenges such as poor living conditions in institutional care homes, a lack of emphasis on alternative community care, and so on. The other forms of alternate care, such as foster care and adoption centers, do not currently exist in India. Because a small number of alternative care arrangements, such as kinship care arrangements, are not registered with the government, they are unregulated and unsupported. As a result, there is a need to strengthen foster care and adoption centers in multiple ways to meet the requirements of children in need of support and care. The irony is that the proper data on the number of children being cared for by extended family members in India is un-available, which does not help in giving clear-cut dimensions for such children.

Non-governmental organizations (NGOs) also provide institutional care in India. For this, they have to obtain a license from the government to run such care homes. However, even NGOs that run institutional care homes lack a standardized framework and the technical capacity to provide quality care.



## **Conclusion**

The mushrooming of institutional care homes in South Asian countries is a major concern for the respective countries, due to the fact that they are incapable of providing a better option for the overall development of the child. Poor care homes are also found to have negative effects on children because they limit cognitive development and rarely provide opportunities for the children's overall development. Most children living in residential care homes are often found to be orphans. The United Nations Convention on the Rights of the Child (UNCRC), which makes it the government's responsibility to use institutional care for children only as a last resort. As India is a signatory, therefore, the onus of responsibility falls upon the government to provide alternate care options for children in need of care, as per Article 20.1 of the UNCRC. As a result, it is concluded that India lacks a systemized structure for providing alternate care placements for children other than in institutional settings and that it needs to strengthen its family-based alternate care homes. It further needs to monitor the conditions of children during their stay in such child care homes.

## **References:**

1. Afghanistan country report. Online: <http://www.children-strategies.org>.
2. Aggarwal, R. (2002, 2006). *Street Children- A socio-psychological study*. Delhi: Shipra Publications.
3. Benitez, S. T. (2011). *State of the World's Street Children*
4. Central Adoption Resource Agency. 2007. Database: Data on adoption. Online: <http://www.adoptionindia.nic.in>.
5. Child Welfare Committees In India A comprehensive analysis aimed at strengthening the Juvenile Justice System for children in need of care and protection. March 2013, The National Commission for Protection of Child Rights (NCPCR).
6. Childline India Foundation. (n.d.). Child Protection & Child Rights: Vulnerable Children. [www.childlineindia.org.in](http://www.childlineindia.org.in): <http://www.childlineindia.org.in/vulnerable-children.htm>
7. Dallape, F. (1988). *An Experience with Street Children* (2nd ed.). Nairobi: Undugu Society of Kenya.
8. Dona, G. 2003. Overview of the conditions of children outside parental care in institutions and communities. UNICEF.
9. Garrity, Carla B. & Baris Mitchell A. (1994) *Caught In The Middle: Protecting the Children of HighConflict Divorce* New York, NY: Lexington Books.
10. Government of India Department of Women and Child Development. 2001. *Convention on the Rights of the Child: India - First periodic report 2001*. Government of India.
11. Government of India, 2007, *Study on Child Abuse: India 2007*. Kriti Publications, New Delhi.
12. Government of India, *Juvenile Justice Acts*
13. Haq (2012). *Towards streamlining implementation of processes and measures pertaining to children in need of care and protection: a study of child welfare committees in Delhi*. New Delhi: Haq: Centre for Child Rights.
14. Hayat, R. & Ahmad, S. (2013). Inclusive education from the lence of vygotsky, *Bhartiyam Journal of Education & Research*, Vol-II, Issue-III, June 2013
15. Hayat, R. & Ahmad, S. (2013). Negotiating identities and social injustice, *Bhartiyam Journal of Education & Research*, Vol-III, Issue-I, December 2013
16. Hayat, R. & Ahmad, S. (2015) *Re-conceptualizing inclusive education through the voices of the dispossessed*, *Journal of Central University of Haryana*, Vol-II, March 2015
17. Hayat, R. & Sharma, S. (2016). *Mewat, identity and Meo girls education: An analysis*, *Journal of Central University of Haryana*, Vol-III, March 2016
18. Hayat, R. & Sharma, S. (2018). *Massacred childhood and breathing hope: Schooling and the Meo girl children*: *Bhartiyam Journal of Education & Research*, Vol- VII, Issue- I, March 2018
19. Hayat, R. (2019). *Breaking boundaries and escaping marginality: An inquiry into Meo girls' experiences of resistance, schooling and change*, Unpublished Ph.D Thesis, Department of Education: Central University of Haryana



20. <http://www.bba.org.in/?q=content.54-children-has-been-rescued-illegal-children-home-south-west-delhi#sthash.rWBe81KW.dpuf>
21. <http://www.bba.org.in/?q=content.54-children-has-been-rescued-illegal-children-home-south-west-delhi>.<https://www.crin.org/en/docs/South%20Asia%20Advocacy%20Kit.pdf>
22. Jayathilake, R. and H. Amarasuriya. 2005. Home truths: Children's rights in institutional care in Sri Lanka. Save the Children in Sri Lanka.
23. Kamath, P. (2009). A Study on Child Welfare Committees in Selected States of India (NCT of Delhi, Karnataka and Uttar Pradesh). Society for Assistance to Children in Difficult Situation. Bangalore: SATHI.
24. Kang, Kris. (2007). What you can do about alternative care in South Asia.
25. Karen, R. (1994). *Becoming attached: Unfolding the mystery of the infant-mother bond and its impact on later life*. Warner Books.
26. P S Pinheiro, World Report on Violence against Children, UNICEF: New York, 2006
27. Save the Childhood Movement
28. Shekar, N. & Vora, V. (2010). A study of the role and functioning of the Child Welfare Committees in Maharashtra: Opportunities and challenges in strengthening the Juvenile Justice System. The Department of Women and Child Development, GoM & UNICEF. Maharashtra: UNICEF.
29. UNICEF (2006). Children outside parental care.
30. UNICEF. (2007). Promoting the rights of children with disabilities. *Innocenti Digest*, 13, 1-68.
31. UNICEF. (2012, February ). The State of World's Children 2012- Executive Summary. Retrieved May 30, 2012, from [www.unicef.org](http://www.unicef.org): [http://www.unicef.org/india/SOWC\\_2012\\_Executive\\_Summary.pdf](http://www.unicef.org/india/SOWC_2012_Executive_Summary.pdf)
32. Westwater International Partnerships. 2003. Children deprived of parental care in Afghanistan: Whose responsibility? Islamic Republic of Afghanistan Ministry of Labour and Social Affairs and UNICEF.



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