

HEALTH OF JUVENILES AT THE TIME OF COVID PANDEMIC- A CRUCIAL NEED

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ABSTRACT

As the novel COVID-19 pandemic continues to evolve, a troubling but familiar pattern continues to emerge. Medical conditions are rooted in the social and environmental determinants of health; COVID- 19 similarly has a disproportionate impact on the historically disenfranchised communities. These communities includes the poor and racial/ethnic minority communities and, now the child health advocates are calling the central, state and the local government to enact some policies that protect and support marginalized individuals and communities along with the youth involved in the justice system. The youth involved with the justice system are itself the members of these marginalized and vulnerable populations and they are entitled to special consideration in response to the COVID - 19 pandemic. Disparities the Juvenile Justice System are rooted in inequalities in the social and environmental determinants of health and failure of public policies. The youth involved in the justice system is itself the youth who is a part of the Juvenile Justice System. Now, as the world grapples with how to respond to the COVID- 19 pandemic, the need and the right of justice to be involved must be fulfilled. Also, because of lack of testing and unclear public reporting about the disease, the number of confirmed COVID- 19 cases amongst the confined youth is unknown. The pandemic presents unique challenges to the health and well- being of the youth involved in the justice system. As the central, state and the local government bodies work to respond to the COVID- 19 pandemic, actions must be taken in order to protect the health and well- being of the vulnerable youth and promote resilience in justice involved in the youth.

Keywords: *COVID-19, Pandemic, Juvenile Justice, Youth, Disparities, Minorities*

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INTRODUCTION

COVID- 19- A PANDEMIC

“We are in this together and we would get through this together”

-UN Secretary, General António Guterres

Corona virus disease (COVID-19) is an infectious disease caused by a newly discovered corona virus. The virus is named as severe acute respiratory syndrome corona virus 2 (SARS-CoV-2)².

Most of the infected people experience mild to moderate respiratory illness and many of them are seen recovering without any special treatment. The people of old age and those facing medical problem such as that of cardiovascular diseases, diabetes, chronic respiratory disease, and cancer are more likely to develop such illness.

The best way to prevent and slow down the transmission of the illness is to remain well-informed about the COVID- 19 virus, the disease it causes and the manner in which it spreads. To protect oneself and others from the infection by washing your hands or using an alcohol based rub frequently and not touching your face.

The cause behind the spreading of such of disease is through droplets of saliva or discharge from the nose when an infected individual coughs or sneeze, also it is important to practice respiratory etiquette (for example, by coughing into a flexed elbow). At present, there are no specific vaccines or treatments available for COVID- 19. However, there had been many clinical trials evaluating potential treatments.

WHAT ARE JUVENILE HOMES?

Juvenile classification homes are facilities under the jurisdiction of the Ministry of Justice with the duty of-

- (1) Classifying juveniles according to requests from family courts,
- (2) Conducting protective treatment including support for sound development for those housed in juvenile classification homes with protective measures, and
- (3) Providing assistance to prevent delinquency and crime in local communities.³

²Coronavirus Disease 2019, (June 9), *Naming the coronavirus disease (COVID- 19) and the virus causes it*, [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it)

Further, shelter homes in the country are strictly made to enforce protection, rehabilitation and restoration of juveniles but, they seem to be a disastrous place for many. The homes have become homes where inmates, who are kids below the age of 18 years, are subjected to sexual assault on different levels.

These kids are however, forced to live in inhuman conditions are treated very badly in these so-called shelter/ correction homes. Also, there is no authorized location for these juvenile homes and are situated anywhere across India, be it a small town or the national capital⁴.

Laws Relating to Juveniles

The Juvenile Classification Home Act came into force in 2015, which performs the duties based on the Juvenile Act and the Juvenile School Act of 1949. One juvenile classification home is located in each high court jurisdiction nationwide for a total of 52, including the six branch juvenile classification homes. The Act provides a total of 10 chapters and 112 sections in it and all the rules in place and with the recent amendments but, what is much required is their implementation. The act came into enforcement on 15th January 2016 and, it brought some key provisions along with it, some of which have been stated below:

There is a change in the nomenclature from ‘juvenile’ to ‘child’ or ‘child in conflict with law’ across the act in order to remove the negative connotation associated with the word ‘juvenile’. Inclusion of some of the negative definitions such as that of orphaned, abandoned and surrendered children and, pretty, serious and heinous offences committed by children;

Clarity in powers, function and responsibilities of Juvenile Justice Board (JJB) and Child Welfare Committee (CWC); clear timelines for inquiry by Juvenile Justice Board (JJB); The Act mandates setting up Juvenile Justice Boards and Child Welfare Committees in every district. Both must have at least one woman member each.

1. Under section 15 some special provisions have been made to tackle child offenders committing heinous offences in the age group of 16-18 years. The provisions provide for placing children in a ‘*place of safety*’ both during and after the trial till they attain

³Ministry of Justice, *Juvenile Classification*, http://www.moj.go.jp/EN/kyousei1/kyousei_kyouse06.html

⁴India. Com News Desk, Coronavirus Pandemic, *Juvenile shelter homes in India have become homes of terror for many* (June 10), <https://www.india.com/news/india/juvenile-shelter-homes-in-india-have-become-homes-of-horror-for-many-1491516/>

the age of 21 years after which an evaluation of the child shall be conducted by the Children’s Court.⁵

2. A separate new chapter i.e. chapter VIII has been added in the Act which deals with Adoption of streamline adoption procedures for orphan, abandoned and surrendered children and, the existing body Central Adoption Resource Authority (CARA) is given the status of a statutory body to enable it to function more effectively.
3. The registration of the Child Care Institutions has been made mandatory. Also, all child care institutions whether run by State Government or by voluntary or non-governmental organisations, either wholly or partially for housing children, regardless of whether they receive grants from the Government, have to be registered under the Act within 6 months from the date of commencement of the Act.

Juvenile Homes and the Children in Conflict with LA:-

The basic activities that the juvenile homes perform which help the children against the law are rehabilitation, social reintegration, usually through monitoring and teaching methods.

The restoration and protection of the children is the prime objective of a Children’s Home/ Specialized Adoption Agency/ Open Shelter, etc., may they be public owned or government owned. The Child Care Institution has the duty to prepare individual care plans for the children in need of care and protection or children who are in conflict with law. This help is provided usually with the Family Based Care System. Also, any child leaving the child care institution on attaining the age of 18 years shall be provided with some financial support as well.

The National Commission for Protection of Child Rights along with the State Commission for Protection of Child Rights have the authority to monitor the implementation of the provisions provided in the JJ Act, 2015, in the manner prescribed under Section 109 of the Act.

COVID 19 AND THE JUVENILES

These juvenile children have been one of the neglected sections of the society during the times of pandemic. On April 4, 2020 the Supreme Court asked the Juvenile Justice Boards to

⁵Child Rights, *Juvenile Justice (Care and Protection) Act, 2015 (June 11)*, <https://vikaspedia.in/education/child-rights/juvenile-justice-care-and-protection-of-children-act-2015>

consider releasing children in conflict with law residing in Observation Homes to prevent spread of COVID-19 pandemic among them.⁶

The court stated that,

“JJB shall consider taking steps to release all children on bail, unless there are clear and valid reasons for the application of the proviso to Section 12 of the JJ Act, 2015, a bench headed by Justice L Nageswara Rao, which had taken Suo moto cognisance of the issue – said in an order.”⁷

The bench also asked to authorities to look into if all the facilities have been provided to the children in the home.

“It is important to consider that violence, including sexual violence may be exacerbated in contexts of anxiety and stress produced by lockdown and fear of the disease. JJBs would need to monitor the situation in the Observation Homes on a regular basis,” the top court said.

The Kerala High Court asked the juvenile homes on 6th April 2020 to submit a written report by 15th April 2020 about the steps taken to protect the interests of the children in the Juvenile Justice Home during the time of COVID- 19.

DIRECTIONS ISSUED BY THE COURT TO THE CHILD WELFARE COMMITTEE

Taking *suo moto* cognizance of the issue involving protection of children who fall within the ambit of Juvenile Justice (Care and Protection of Children) Act, 2015 from the spread of Corona virus that is sweeping the world, the bench of L. Nageswara Rao and Deepak Gupta, JJ issued extensive directions to various authorities⁸.

- Ensure whether a child or children should be kept in the CCI considering the best interest, health and safety concerns.
- Special online sittings or video sessions may be called to consider measures that may be taken to prevent children residing in the Children’s Homes, SAAs, and Open Shelters from risk of harm arising out of COVID 19.

⁶Tribute News Service, Nation, *Covid- 19: SC asks JJB to consider releasing on bail children in Observation in Homes* (June 13), <https://www.tribuneindia.com/news/nation/covid-19-sc-asks-jjbs-to-consider-releasing-on-bail-children-in-observation-homes-65513>

⁷*Id*

⁸Prachi Bharadwaj, Case *brief on Covid -19 Supreme Court, SC issues extensive directions to protect children in Protection Homes from spread of Corona virus* (June 15), <https://www.scconline.com/blog/post/2020/04/04/covid-19-sc-issues-extensive-directions-to-protect-children-in-protection-homes-from-spread-of-coronavirus/>

- Gate keeping or preventive measures need to be considered and families counselled to ensure that institutionalization is the last resort.
- Online help desks and support systems for queries to be established at the state level for children and staff in CCIs.
- Violence, including sexual and gender-based violence may be exacerbated in contexts of anxiety and stress produced by lockdown and fear of the disease, CWCs can monitor regularly through video conferencing, WhatsApp and telephonically to ensure prevention of all forms of violence.

Directions issued by the Court to Juvenile Courts and Children Courts:-

Steps to be taken to release all children alleged to be in conflict with law on bail, unless there are clear and valid reasons for the application of the proviso to Section 12, JJ Act, 2015. Video conferencing or online sittings can be held to prevent contact for speedy disposal of cases. Ensure that counseling services are provided for all children in Observation homes.

Directions to CCIs:-

The Health Ministry has set up new National Helpline on COVID19, which are 1075 and 1800112545. In case of any queries or clarifications related to Corona virus pandemic, call on this number. In addition, Childlike 1098 continues to be operational.

Staff or any other individual found to be exhibiting symptoms of COVID19 should not be permitted to enter the CCI. Enforce regular hand washing with safe water and soap, alcohol rub/hand sanitizer or chlorine solution and, at a minimum, daily disinfection and cleaning of various surfaces including the kitchen and bathrooms. Where adequate water is not available, immediate steps should be taken to ensure it is made available through necessary action, including enhancing budget allocation for the said purpose.

- Provide appropriate water, sanitation, disinfection, and waste management facilities and follow environmental cleaning and decontamination procedures.

Directions for children under foster and kinship care:-

- Families that are fostering children should receive information about how to prevent COVID19 as indicated above.

- Follow up should be made on their health and psychosocial wellbeing status, and they should be informed of how to do in case of symptoms⁹.

WHAT ELSE THE SUPREME COURT DIRECTS?

Some preventive measures have also been issued by the Supreme Court in its guidelines, which includes the spreading of awareness, take some positive steps to practice, promote, and demonstrate positive hygiene behaviors and monitor the uptake of the children living in the child care protection homes or, in the juvenile justice homes. Also, the children should be taught to practice social distancing and, the place should be cleaned and should be disinfected rigorously.

In addition to this, some responsive measure have also been taken by the Supreme Court, which includes conducting of regular screening, along with following the procedures established by the Ministry/ Department of Health and Family Welfare, if children, staff or other service providers working in the CCI become unwell. Also, the CCI's should have a quarantine section (where possible) and to make an alternative arrangement in place no such facility is being provided. Also, they have the duty to plan ahead with the local health authorities regarding the emergency, if any arises during the time of COVID- 19 pandemic.

What does a child in conflict with law requires?

The juvenile is said to provide all the required facilities to the child, may it be with a doctor or a psychologist for improvement in their behavior. They are provided with the basic education, which includes reading and writing, speaking skills and, even some basic skills which may help them earn in future. Also, they are taught the need of sanitation. But, the question is, is it really that these children are provided with such facilities?

Taking it into consideration that, under normal circumstances, incarcerated and detained youth often experience poor conditions of confinement and, so the juvenile justice advocate have raised concerns that many of the juvenile detention facilities are not equipped to adequately respond to COVID- 19 pandemic. Lack of manual facilities such as of psychologists and doctors poses a great threat to the physical and mental health of the individuals in the juvenile justice homes.

⁹Prachi Bharadwaj, Case brief on Covid -19 Supreme Court, *SC issues extensive directions to protect children in Protection Homes from spread of Corona virus* (June 15), <https://www.scconline.com/DocumentLink.aspx?q=JTXT-9000439950>

Detention centers struggle in ensuring social distancing and may also experience supply chain disruptions in obtaining soaps, hand sanitizer, personal protective equipment, cleaning supplies, etc. Collectively, the factors mentioned increase the risk of COVID- 19 transmission amongst confined youth. It is usually seen that these remain in conflict with the society and, they do not stand on the stands set by the society. They face problems getting well with the people, they also experience difficulty in talking to the people and also stand out amongst them. These children are most likely to develop habits of becoming alcoholic and drug addicts.

They usually face problem in getting a job once they get out of the homes at the age of 18 years and, to start up a family or think about a career. Also, they are not accepted by the society or in worse of the cases, even their families deny to accept them once they are out of the homes. Hence, these children require special care and treatment once in and even once they get out of the homes. The society should accept them and, should the fact into consideration that they have been given special treatment in the juvenile homes, which has made them, develop into a better individual.

In some scenarios, these people are unable to find their families and, are also unable to fetch jobs due to which they die on the roads with no work and, empty stomach. They experience immense pain once out of the juvenile homes/ child protection centers. Hence, the families of these children should also be made aware about the consequences of them not accepting their own children once out of these homes. Also, if possible these juvenile homes should provide these released individuals with a good job which makes them efficient enough to earn well and have a decent living.

This would help these children in coping up with the norms of the society. Also, in case, any of these children they feel is proficient enough academically then, these children should be provided with adequate education as, they juvenile homes already provide them with some of the basic language classes, psychological classes and skill classes and, if they end up studying, they could eventually end up being one of the best of all in their fields and help them pass with flying colors.

CONCLUSION

Lack of testing and unclear public reporting about the disease, the number of confirmed COVID- 19 cases amongst the confined youth is unknown. The pandemic presents unique challenges to the health and well- being of the youth involved in the justice system. As the

central, state and the local government bodies work to respond to the COVID- 19 pandemic, actions must be taken in order to protect the health and well- being of the vulnerable youth and promote resilience in justice involved in the youth.

The juvenile justice system should take actions in order to, (1) Reduce the transmission of COVID- 19 in juvenile justice facilities, and (2) Mitigate the negative effects of practices that may be required to reduce the transmission.