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FUNCTIONING OF FUNDAMENTAL PRINCIPLES UNDER JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000 IN KERALA



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ABSTRACT

The Juvenile Justice (Care and Protection of Children) Act, 2000 gives guidelines for the proper functioning of children's home, observation home, special home, and aftercare home. It also provides guidelines for fundamental principles of this act and education, vocational training, rehabilitation, etc. The investigators attempted an evaluation of the functioning of these institutions. For this purpose, a random selection of the sample was made to set appropriate representation for each institution. To fulfill the objective, prepared an interview schedule for superintendents and questionnaire for inmates.



KEYWORDS : Juvenile Justice.

INTRODUCTION

Education is to develop the unique individuality of each child according to his nature in a natural way. Every child needs nurturing, education, and exercise. These needs do not end when children come in contact with the law. No delinquent has a gene or a set of genes, which produce in him a tendency to indulge in antisocial behaviour.

The Department of Social Welfare has been implementing various schemes and programmes for the development of children for improving their overall quality of life. The New Juvenile Justice (Care and Protection of Children) Act, 2000 is progressive child-related legislation and its preamble invokes the UN convention on the Rights of the child.

An institution was established by the Government of Kerala to rehabilitate children below 18 years of age who need care and protection under the Juvenile Justice Act, 2000. Shelter, food, education, medical care, developmental opportunities and exposure for socialization/ mainstreaming are the services provided in the institutions.

SIGNIFICANCE OF THE STUDY

The act provides the following things:

i) Fundamental Principles of Juvenile Justice and Protection of Children

The Juvenile Justice (Care and Protection of Children) Rules, 2007 [G.S.R. 679(E), dt. 26-10-2007].

Rule 3: Fundamental Principles to be followed in the administration of these rules

- 1) The State Government, the Juvenile Justice Board, the Child Welfare Committee or other competent authorities or agencies, as the case may be, while implementing provisions of these rules shall abide and be guided by the principles specified in sub-rule(2).
- 2) The following principles shall, inter alia, be fundamental to the application, interpretation and implementation of the Act and the rules made hereunder.
 - a) Principle of presumption of innocence.
 - b) Principle of Right to be heard
 - c) Principle of best interest
 - d) Principle of Safety
 - e) Principle of positive measures
 - f) Principle of equality and non-discrimination
 - g) Principle of dignity and worth:
 - h) Principle of family responsibility
 - i) Principle of non-stigmatizing semantics, decisions, and actions
 - j) Principle of non-waiver of rights
 - k) Principle of right to privacy and confidentiality
 - l) Principle of last resort
 - m) Principle of repatriation and restoration
 - n) Principle of Fresh Start

ii) Institutions like Children's Home, Observation Home, Special Homes and After Care Home

Juvenile Justice (Care and Protection of Children) Act, 2000 [56 OF 2000, DT. 20.12.2000] (As amended by Act No. 33 of 2006, dt. 22.8.2006) and
Section 8(1)(2)(3)(4) regarding Observation Homes
Section 9(1)(2)(3)(4) regarding Special Homes
Section 34(1)(2)(3) regarding Children's Homes
Section 44(a)(b)(c)(d)(e) regarding After Care Organizations.

iii) Facilities like Medical Care, Education, Vocational Training Recreation Facilities, etc.

The Juvenile Justice (Care and Protection of Children) Rules, 2007 [G.S.R. 679(E), dt. 26-10-2007] and
Rule 45 every institution shall provide Medical Care
Rule 47 every institution shall provide education
Rule 48 every institution shall provide gainful vocational training to juveniles or children.
Rule 49 provision of guided recreation

Juvenile Justice Act 2000 and Rules give guidelines for the proper functioning. In this context, it is necessary to evaluate the functioning of these institutions and measure the satisfaction level of inmates.

OBJECTIVES OF THE STUDY

1. To analyse the status of the execution of fundamental principles in Juvenile Justice (Care and Protection of Children) Act, 2000 with respect to the following aspects:
 - a) Principle of presumption of innocence.
 - b) Principle of Right to be heard
 - c) Principle of best interest
 - d) Principle of Safety
 - e) Principle of positive measures
 - f) Principle of equality and non-discrimination

Sample Selected for the Study

The present study was conducted in the following institutions:

Table 1: Details of the Sample Selected

S.No.	Name of the Institution	Total No. of	
		Students	Supdt's
a) Children's Home			
1.	Government Children's Home, Vellimadukunnu, Kozhikode (for boys)	178	6
2.	Government Children's Home, Vellimadukunnu, Kozhikode (for girls)		
3.	Government Children's Home, Ramavarmapuram, Thrissur (for boys)		
4.	Government Children's Home, Ernakulam (for girls)		
5.	Government Children's Home, Vellimadukunnu, Kollam (for boys)		
6.	Government Children's Home, Poojappura (for boys)		
b) Observation Home			
7.	Observation Home (for boys), Vellimadukunnu, Kozhikode	5	6
8.	Observation Home (for Girls), Vellimadukunnu, Kozhikode		
9.	Observation Home, Ramavarmapuram, Thrissur (for boys)		
10.	Observation Home (for boys), Ernakulam		
11.	Observation Home, Kollam (for boys)		
12.	Observation Home, Poojappura, Trivandrum (for boys)		
c) Special Home			
13.	Government Special Home, Poojappura, Trivandrum (for boys)	5	2
14.	Government Special Home, Vellimadukunnu, Kozhikode (for girls)		
d) After Care Home			
15.	After Care Home, Kozhikode (For Girls)	42	2
16.	After Care Home, Thalassery (For Boys)		

In selecting the sample, appropriate representation was given to each institution so as to enable cross-checking of the data collected from Juvenile Inmates and Superintendents of the Institutions.

TOOLS USED FOR THE STUDY

To fulfil the above said objective, data was collected using the following tools:

The investigators before preparing the tools consulted the experts in the field of Juvenile Justice. All the items in the tools were prepared based on the stipulations mentioned in the following:

- 1) The Juvenile Justice (Care and Protection of Children) Act, 2000.
- 2) The Juvenile Justice (Care and Protection of Children) Rules, 2007.
- 3) The Kerala State Juvenile Justice (Care and Protection of Children) Rule, 2003.

i) Interview Schedule on Functioning of Fundamental Principles Under Juvenile Justice (Care and Protection of Children) Act, 2000 in Kerala - for Superintendents

This interview schedule was intended for the superintendents of the institutions. Superintendents are the persons responsible for the day to day functioning of the institution. The schedule contains a total of 25 items, of which 8 are of Yes/No type, 13 are of the open-ended type and 4 were for collecting general information.

ii) Questionnaire on Functioning of Fundamental Principles Under Juvenile Justice (Care and Protection of Children) Act, 2000 in Kerala - for Inmates

The major objective of preparing the tool was to find out the responses of inmates regarding the functioning of Juvenile institutions under the Act. This tool was mainly used for checking/collecting the views of the inmates who are the actual-beneficiaries of the act. It also helps to reduce the subjectivity of the

responses of the superintendents The Questionnaire consisted of 17 questions, which provided an understanding of the functioning regarding the execution of fundamental principles.

RESULTS AND DISCUSSION

There are 14 fundamental principles to be followed by juvenile institutions as per Juvenile Justice (Care and Protection of Children) Act, 2000. Here the investigator selected only six fundamental principles. 17 questions were constructed and administered to check whether the authorities behave in accordance with these principles. Table-1 shows that the details of the execution of fundamental principles in the Juvenile Justice Act, 2000.

Table 2: Summary of Details Regarding the Execution of Fundamental Principles in the Juvenile Justice Act in Different Institutions

S.No.	Principles	Children’s Home (%)	Observation Home (%)	Special Home (%)	After Care Home (%)
1.	Principle of Presumption of Innocence	63.5	40	40	83.3
2.	Principle of Right to be Heard	75.8	60	60	97.6
3.	Principle of Best Interest	77.0	80	60	88.0
4.	Principle of Safety	80.9	100	60	85.7
5.	Positive Measures	67.4	NA	40	80.9
6.	Principle of Equality and Non-discrimination	76.9	60	60	90.4

From the data, it can be seen that, of the 4 types of institutions, After Care Home follows all the principles in a better manner.

The analysis of the above data shows that most of the institutions follow the Juvenile Justice Principles in true sense.

The ‘Principle of Presumption of Innocence’, the juvenile's or juvenile's in conflict with law or child's right to presumption of innocence shall be respected throughout the process of justice and protection from the initial contact to alternative care, including aftercare.

The ‘Principle of Right to be Heard’- from the above table it is clear that every child’s right to express his views freely in all matters affecting his interest shall be fully respected through every stage in the process of juvenile justice.

The ‘Principle of Best Interest’, the above table suggests that, in all decisions taken within the context of the administration of juvenile justice, the principle of the best interest of the juvenile or the juvenile in conflict with law or child shall be the primary consideration.

The ‘Principle of Safety’, from the above table it is found that ‘The State has a great responsibility for ensuring the safety of every child in its care and protection, without resorting to restrictive measures and processes in the name of care and protection. The inmates are free from any harm, abuse, maltreatment, corporal punishment, etc.’

The ‘Positive Measures’, from the analysis, it is found that to facilitate the development of identity for the child and provide them with an inclusive and enabling environment. To conclude, we can say that it is not applicable to Observation Home.

The ‘Principle of Equality and Non-discrimination’, the above analysis reveals that ‘There is no discrimination against a child or juvenile in conflict with law on the basis of age, sex, place of birth, disability, health, status, race, ethnicity, religion, caste, cultural practices, work, activity or behaviour of the juvenile or child’.

FINDINGS OF THE STUDY

1. Every teacher is a social treasure. Keep this in mind; it is our duty to ensure whether this type of homes follows the fundamental principles of the juvenile justice act strictly.

2. The inmates need special care and attention. So the developmental opportunities provided to them should be improved.
3. By providing respect to each child uphold the idea of individual uniqueness.
4. Pull mobilization of all possible resources like family, volunteers, community groups, etc.
5. Ensure the civil and political status of the child.
6. Deinstitutionalized educational practices should be encouraged because through this, the inmates get opportunities for character formation, moral development, interacting with society, etc.

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