



Sexual abuse in Child Care Institutions: System of silence

Susmita Shukla

Research scholar- Deptt. of Sociology, Banaras Hindu University, Varanasi (U.P.), India

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Abstract: *In the first half of 2012, the newspaper, Times of India reported cases of sexual abuse in eight child care institutions in different parts of the country (HRW report). The highlighted cases have triggered a national debate on the issue of reliability and safety of child care institutions across the country. In the wake of the media outrage and the recommendations of justice Verma committee, amendment in the JJ act was done in the year 2015 and the question of social mapping of the child care institutions was raised too. The study starts with a brief introduction comprising definition of child and child sexual abuse under POCSO Act along with the definition of CCIs under JJ Act, 2015. The study then gives a brief summary of the Apna Ghar case in Rohtak and analyses the case to explain the reasons of sexual violence in CCIs and solutions through the four square theory of leftist realism. the above challenges, drawbacks, and reasons behind non - adoption of virtual classes.*

Key Words: Child sexual abuse; Child Care Institutions; JJ Act.

Introduction- In traditional Indian society, it was unimaginable to think about a situation where a child would be left to fend for himself or herself. The idea of child care institutions was foreign in our country. We had a well-established social structure of joint family system where responsibility of children was not limited to their parents. But, fading joint family system and changing social environment have left a large section of our children without the protection of their families for different reasons. Out of need, child care institutions came into existence in our country. But the unpreparedness of the changing social and political system has led to increase in number of crimes against children as well as increase in number of children who are in conflict with law. Being the most vulnerable section of society even when they live under the protection of family, this section when left under the system becomes doubly vulnerable. CCIs shelter children who have been through hardships and already had enough misery for their young age. These institutions are supposed to gather their shattered soul and bring them back to their normal self. But, the reality tells a different story. They suffer different types of abuse, child sexual "

abuse being the worst and most common abuse. Instead of haven, many child care institutions become a hellhole for these marginalized children in need of state protection. Before detailed analysis of the issue of child sexual abuse in CCIs, legal definitions and a briefing of the Apna Ghar case is done.

Conceptual definitions-

Child- The POCSO act, 2012 defines a child as an individual below the age of 18 years .
Child sexual abuse: The POCSO act, 2012 defined Child Sexual Abuse in a comprehensive way encompassing the following:

1. penetrative sexual assault,
 2. aggravated penetrative sexual assault,
 3. sexual assault,
 4. aggravated sexual assault,
 5. sexual harassment,
 6. using child for pornographic purpose, and
 7. trafficking of children for sexual purpose
- the offence mentioned are treated as "aggravated", when the abused child is mentally ill or when the abuse is committed by a person in apposition of trust or authority vis-à-vis the child. The act prescribes stringent punishment graded as

per the gravity of the offence, with a maximum term of rigorous imprisonment for life, and fine .

Child Care Institutions(CCI): As per JJ act, 2015, "Child Care Institution" means Children Home, open shelter, observation home, special home, place of safety, Specialised Adoption Agency and a fit facility recognised under this Act for providing care and protection to children, who are in need of such services .

Summary of the Apna Ghar case- This case is a classic example of systemic failure in Child Care Institutions. On May 07,2012, three girls escaped from the government funded shelter home run by an NGO Bharat Vikas Sangh and went to Delhi via Bhiwani and called Childline . The matter reached National Commission for Protection of Child rights (NCPCR) and the immediate action of the NCPCR officials led to the disclosure of the inhuman sexual torture children were subjected to in the institution. On May 9, 2012 a surprise raid by a team of National Commission for Protection of Child Rights led to rescue of nearly 120 people, including women and children . The owner, Jaswanti Devi along with several relatives were arrested. On June 08, the Haryana Govt. sealed the shelter home and after few days the case was handed over to CBI. On August 07, chargesheet was filed against 10 people in special CBI court in Panchkula. On September 23, CBI framed charges against all accused and the trial began . The trial is ongoing and we still await the final judgement in the hope that justice shall prevail. The chilling details in the case of the Apna Ghar shelter home unveiled in the ongoing investigation mocks the current system and the state preparedness in regards to the safety and well-being of children.

Now, we can explain the issue of CSA in CCIs through the help of the four Square theory of crime and the series of events that occurred in the Apna Ghar case.

fig. 01 shows, the square of crime have four elements, namely;

- * the state and its agencies;

- * the offenders and their actions;
- * the victims;
- * informal methods of social control i.e., society and the public

The social relationships between each point on the square are as follows:

- * the relationship between the state and the public;
- * the relationship between the victim and the offender; the relationship between the state and the offender;
- * Relationship between victim and the public.



Fig. 01 "Square of Crime"

Source: HARALAMBOS AND HOLBORN SOCIOLOGY- Themes and Perspectives Based on the four square theory of crime by left realism, a chart(fig. 02) is prepared to understand the issue of child sexual abuse in child care institutions comprising four elements, namely,

- * Victims i.e., children living in CCIs who went through sexual abuse;
- * Offenders i.e., people involved in the management of the CCIs;
- * Informal social control i.e., society and its people and media;
- * Formal control i.e., govt., police and other govt bodies like NCPCR, CWC etc.



Fig. 02

Reasons for sexual abuse in CCIs and its solution- With the help of the relationships



between four elements mentions in Fig.02, the reasons for the perpetuation of sexual abuse in CCIs as well the solution for the same is explained.

Relationship between the offenders and victims- The sexual abuse in the Apna Ghar was happening for a very long time and if not for the three girls who ran away and contacted the authority, the abuse would have continued. Offenders i.e., people who are in control of these CCIs and the children living in these CCIs share asymmetrical power relations. The kids are powerless and at the mercy of the very people who are exploiting them. So, the impact of crime is extremely damaging to the victims and chances of disclosure by victims are very low. The solution is to create a more transparent system which can foster environment where children have the freedom to live a dignified and enjoyable childhood.

Relationship between victims and Informal control- In Apna Ghar shelter home, the owner, her relatives, staffs working at the shelter home, drivers, local police etc. were involved in the sexual abuse of the inmates. It seemed that all the people who were in position to inform the authority were in connivance with the offenders and were themselves participants in the immoral acts. At the time, people of the neighbourhood became apathetic towards the well being of children living in these CCIs. Lack of outrage on the part of the people in system led to the continued perpetuation of sexual abuse for so many years. The awareness and empathetic behaviour of community and its people can determine the efficacy of policing. Also, questioning media that helps in raising awareness regarding these abuses in child care institutions will in turn help in creating a victim friendly attitude in the society.

Relationship between the state and the offender -The owner of the Apna Ghar was run by a respected charity that also managed the local Childline and other government-funded welfare programs for destitute children, women, and persons with disabilities. Its owner, Jaswanti Devi, was a

member of the district's Juvenile Justice Board, which deals with children accused of crimes. In March 2012 she received Haryana's top award for women "role models," and was presented with a large cash prize by the Haryana chief minister's wife.(HRW Report) . In a sense, the criminals in the garb of social activists became the gate keepers and continued unchecked exploitation of the marginalized children. The situation itself exposes the unpreparedness of the state and lack of monitoring mechanism of these child care institutions. The state needs a better supervising system and regular monitoring of the child care institutions in order to stop crime against children and check recidivism.

Relationship between state and informal control - Apna Ghar is an example of systemic failure and state ignorance. This ignorance is the result of an unquestioning media and society towards the state unpreparedness which leads to the mushrooming of these hell holes in the name of CCIs. Relentless questioning of the state agencies by media and society will create much needed pressure and will lead to a prompt police actions and proper state mechanism.

Conclusion- Child sexual abuse in child care institutions is rampant and cases like Apna Ghar shelter home is only icing on the cake. Even kids living with their family end up never telling anyone about the incidents of sexual abuse for a long time, not even their parents. This shows how much power abusers have over their victims when they are known. It becomes even more difficult for children in child care institutions to open up to anyone. So, the chances of undisclosed sexual abuse are maximum in CCIs. The disturbing part is that majority of such hell holes remains unchecked and unregistered which further increases the chances of non-reporting of such incidents. We do not even know the real number of such shelter homes and institutions in our country nor the number of children who live in these places. Although, the govt has ordered to start the social mapping of all the



institutions, how much will be done remains to be seen.

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