
AN APPROACH TO CHILD PROTECTION

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INTRODUCTION :

Globalization has also shrunk the world and made it immensely realistic for news and views to reach every isolated nook and corner of the world. It has myriad roles to dispense with in the current situation. It is a powerful medium for information, education and entertainment. And in all three realms, the media possesses both rights and responsibilities. It is truly and really a 'media world'. However the media often acts as a double edged tool as well.

In the classical sense the media was meant to disseminate information, sensitise the public and be a potent tool for communication. The twenty first century however has experienced numerous new roles donned by the media. Commercialisation and privatization of media houses the foremost changes that have swept across the media houses globally and locally. Perhaps these have been the biggest contributors to sensationalism, advent of media trials, sting operations and also largely a dent in the media as a credible, apolitical and neutral entity. The clout and influence wielded by media in contemporary scenarios has been immense and to the extent that '*legislation by tabloid*' seems to be the buzz word.

CHILDREN : CHATTEL OR CITIZENS :-

Children unfortunately in societies, communities and countries world over occupy a subaltern status. As a social group children remain diverse and heterogeneous and thus their status and position within familial and societal settings also varies vastly. Issues of gender, caste, religion, age, race, economic background, education, disability, location etc. have a snowballing effect on childhood and children. The notion of childhood *per se* has undergone serious changes in recent times.

From being regarded as sole property of the fathers¹² and thus being legitimised in the social and legal fabric as chattel, children have suffered the ignominy of being mere ‘objects’ of intervention for protection and welfare. This protectionist and charity based approach has gradually been eroded by the advent of the human rights discourse wherein children are also deemed to be right holders in the real sense like their adult counterparts.

The catalyst for the paradigm shift from welfare to rights has been a legacy of the *United Nations Convention on the Rights of the Child 1989 (UNCRC)*. As a global human rights treaty almost achieving universal acceptance, the UNCRC 1989 has been instrumental in infusing the rights discourse in the realm of child protection, welfare and development. India has ratified this treaty and as per constitutional obligations is mandated to internalise these minimum global standards in the domestic scenario. This epoch making global human rights instrument has impacted the Indian scenario as well.

Who constitutes a ‘child’ in the India context remains a herculean puzzle. As per Article 1 of the UNCRC 1989 a child is a person who has not completed eighteen years of age. Though the Constitution of India – the fundamental law of the land, enshrines several provisions referring to children, it does not stipulate a definition of a child.¹³ There is no uniform definition of child, children or childhood. Sector specific definitions with varying age cut-offs exists. This implies inegalitarian, unequal protection for children.

JUVENILE JUSTICE IN INDIA : DUAL ELEMENTS :-

The interface of children with the criminal justice system in India occurs in myriad ways. Some most prominent representation of the same is as child victims, child witnesses and child offenders. This notwithstanding, world over the adult criminal justice system is deemed to be inappropriate to address concerns and issues pertaining to children.

The stringent, punitive and deterrent approach that the adult penal system embodies is often considered to be extremely harsh and severe towards children.¹⁴ And this triggered the evolution of

a juvenile justice framework that endorses a restorative and rehabilitative approach towards children especially those in conflict with law. The table below depicts the differences

The Juvenile Justice framework in India addresses two core aspects -Justice and Welfare jurisdictions. The former addresses, children in conflict with law (CICWL)or juveniles whilst the latter caters to children in need of care and protection (CINOCAP) or neglected/abused children. The *Juvenile Justice (Care and Protection of Children) Act 2000*,¹⁵the primary legislation for the same imbibes a restorative and rehabilitative philosophy for both groups of children. The JJ (C&PC) A 2000 defines a child/juvenile as a person who has not attained 18 years of age.¹⁶

India's National Crime Records Bureau data reveals that CICWL hail from marginalized and impoverished families.¹⁷ Thus this is testimonial of the fact that children are not born criminals but socio economic compulsions are responsible for their foray in the world of crime. The National Crime Records Bureau in its 2009 report showcases a staggering 7.9% hike in crime rates against children. This also implies that children are vulnerable targets and cases against children often go unpunished or with minimum sentencing. The media can be a robust entity in dissemination information, educating community and sensitising the society on the same.

THE PROMOTIONAL APPROACH :

The media can indeed be the facilitator in providing access to children to their rights. By projecting child protection as a national agenda and sustained media campaigns can be effective strategies to sensitise the public and curb violence against children.

The media can be an effective medium to challenge prevailing archaic cultural and social practices that are inherently against the interest and rights of the child. It can suitably mould opinion of the public and policy makers against traditional customs and culture that harm the child's psyche, health and development. The case of child marriages and child labour are two such concrete illustrations wherein the media has played an affirmative role.

The National Campaign on the Girl Child run by the media has also immensely been beneficial in highlighting social issues of female foeticide, sex selective abortions, skewed male-

female sex ratio etc. All this has contributed to greater awareness and understanding on some of the social challenges national in nature.

Through the *Right to Information Act 2005*, the media has emerged as a custodian of children's rights as well. It has exposed the malaise of corruption in all echelons of power in the Governmental and bureaucratic set up that affect projects like mid-meal schemes, etc. This has rallied the Government to get more accountable and transparent in their dealings with funds meant for children.

The famous case of *Sheela Barse vs. Union of India* is one such categorical reference of vigilant media that infused a new lease of life in the domain of child rights and welfare.¹⁸ The case drew nationwide attention for incarceration of juveniles in jails, long pendency of juvenile cases, prevalence of abuse and neglect in custodial care etc. The case was responsible for triggering law reform in the ambit of juvenile justice in India.

As the fourth estate and responsible entity for good governance, it can be an effective agency to monitor the implementation of rights of the children in the country. The child's right to participate another radical provision of the UNCRC 1989 that recognises child's agency and autonomy similar to adults can be effectively addressed through the media.¹⁹ The media can be the medium for children to express their views, concerns and stories and this way the fundamental right to freedom of speech, expression and information as guaranteed in the Constitution of India to all inclusive of children can materialised with the able support of the media-print and electronic.

THE CONFLICTING APPROACH:

The media has a pivotal role to demonstrate in the arena of child protection. However, there have been several instances of the media inducing a climate of fear or fuelling suspicion, mistrust and portraying negative images much to the detriment of child welfare.²⁰ With the media whipping up the issues of what constitutes 'normal' or 'deviant' pertaining to children, it bears the onus of placing issues in the public and political debates.

Additionally crime news especially juvenile crimes and child abuse and neglect news do world over occupy prime time viewership and footage.²¹ Children also form the majority segment of viewers for television and increasingly there has been an upsurge in child internet users. Thus content showcased by the mass media should be suitable for child viewership as well. However the media has been instrumental in often depicting gory, grotesque and unpalatable details of child abuse and juvenile crimes. There is infact no waning of ‘compassion or media fatigue’.²²

The UNCRC 1989 that articulates indisputably the *Best Interest of the Child*²³ as the cardinal principle while addressing children’s issues. The role of the media also needs to be projected in this direction. Article 17 of the UNCRC 1989 balances the child’s freedom of speech, expression as well receive information but simultaneously monitors the role of media in the same.

Apart from this the other normative framework that impinge on juvenile and youth justice though they are not legally binding treaties are the – *Beijing Rules and the Riyadh Guidelines*. Rules 8 and 8.1 in the former to prevent labelling prohibit the disclosure of identity of the juvenile.²⁴ Additionally the rules also insist on the records of juveniles are to be kept beyond access to third parties. The JJ(C&PC)A 2000 makes ample provisions for protection rights of both juveniles and child-

THE RIGHT TO CONFIDENTIALITY : This is an integral feature of the juvenile justice framework in India. Since children are believed to be cognitively immature and thus not in a position to gauge the consequences of their actions, the juvenile justice philosophy provides them with a second opportunity to redeem themselves. These misdeeds committed during childhood or adolescents need to be effectively masqueraded from the public glare so as to prevent stigmatisation or labelling of the child/juvenile.

There is an absolute prohibition on the disclosure of the name and, identity and other details of a juvenile or a child in section 21 of the JJ(C&PC)A 2000.²⁵ The right of privacy of the

child/minor/juvenile and the freedom of expression of media and right to information of the public needs to be weighed and balanced in such circumstances. Though ‘anonymity orders’ rule the roost, in exceptional circumstances if it’s in the interest of the minor the Court can order publication of details.

RIGHT TO PRIVACY AND DIGNITY – The JJ(C&PC)a 2000 is a beneficial and benevolent legislation meant to mainstream and reintegrate juvenile offenders as well as protect victims of crimes. The legislation to prevent childhood misdemeanours from catching up in adult life actually calls for a total expungement of records of a juvenile and no disqualification being attached to a conviction.²⁶ This is in sync with the restorative underpinnings of the juvenile justice system in India. The media also has no access to these records.

Additionally, the juvenile justice legislation seeks to prevent secondary victimization and social ostracization of both juveniles as well as child victims of crimes especially sexual crimes like - child sexual abuse, prostitution, trafficking etc. ²⁷ Their right to privacy and dignity stands protected to the extent that the judgements of the Apex Court, High Courts and the lower courts are barred from mentioning the ‘real’ name of the victim. This is to prevent the publication or revelation of the same in the public eye especially since the media often has access to trials and court proceedings.

The issue of naming is indeed a shaming phenomenon. The child’s identity is to be protected at all costs. The explicit or indirect should be punishable severely and thus the onus on the judges to take stringent actions against erring media personal and houses. ²⁸ The media has a responsibility to not hamper the opportunities of rehabilitation and reintegration into families and communities for both a juvenile offender as well as a child victim. The coverage and reporting of cases of child abuse and juvenile offences should be sensitively handled within the applicable contours of the permissible laws.

THE FELICITATING APPROACH :

One of the major responsibilities of the media in both the print and electronic has been to a preponderant tool for disseminating information, news and views. The media possesses the crucial responsibility to be an active disseminator of diversified perspectives in a manner that is neutral, a political and non-biased. The media as a propagator of information has a pivotal mantle for ensuring that the entire citizenry benefits from what it projects-children inclusive.

The Constitution of India under Article 19(1)(a) guarantees the fundamental right to freedom of speech and expression to all in India including children. This remains a core right essential for exercising the right to participate in political governance of the nation. The UNCRC 1989 eulogises the right to participate for children-though a bit radical and unclear and basically an untested terrain.²⁹ The child's right to participate in affairs affecting him would undeniably depend on the access he/she would have to news and views.³⁰

The constitutional right to freedom of speech and expression also encompasses the right to seek, receive and access information.³¹ The media is thus under an obligation to spread information that benefits children as well. The content of programmes and activities project in media arena also needs to gauge the moral, psychological and emotional repercussions that the contents and images may have on children. The media thus is also required to display restraint in ways and means in which disseminates information and opinions.

The media medium can also be an effective platform for children to air their concerns and grievances. Youth participation can be effectively harnessed with the able support of the media. As a visible global platform, the media can provide opportunities to children to participate in the affairs and issues that affect them closely. There are several illustrations wherein the media has actively supported children's presence and participation- talk shows, Bal Panchayats etc.

However in the current situation the presence of children in media has often deteriorated in aspects that severely hamper children. The recent reality television shows that also include music

competition, dance competition, talent hunts etc. have had adverse impact on children's psyche. The callous media projection and frenzy of winners and losers often led children to attempt suicide. And this needs to be tackled with great urgency.

CHALLENGES AND THE PATH TO BE TRAVERSED-

It is imperative to realize that children occupy varied spaces in the media. As 'users' they remain consumers who seek to access information and views to shape their perceptions and ideas. As 'subjects', children actively participate in different hues in the media. As 'objects' depiction of children in stereotype roles of dependants, victims is yet another dimension.

The media in current settings is a necessary evil. It needs to be harnessed effectively and constructively to make an affirmative impact on issues related to child protection. It has tremendous significance in eradicating prejudices and biases against children, juvenile and youth offenders. A Code of Ethical Guidelines or Principles with regard to reporting on children's cases can be the possible blueprint for the media in breaking 'stereotypes' and 'negative images and perceptions' of children .

The media and the Ombudsman for children, the National Commission for Protection of Child Rights and its State counterparts can collaborate and partner effectively to facilitate greater protection and promotion of rights of children in India. Infact the media is indeed the force to reckon with to entrench a child rights culture in the country and it is bound to so as a responsible agent of the society....!

REFERENCE BOOKS :

1. C.Goddard & B.J.Saunders, Child Abuse and the Media, Child Abuse Prevention Issues, No. 14, Winter 2001,
2. Goddard, C, "Read all about it! The news about child abuse" Child Abuse Review Vol. 5. No.5., 1996,
3. McGregor, J. Crime News as Prime News in New Zealand's Metropolitan Press. Legal Research Foundation, 1993, Auckland.
4. Patrick Ayre, Child Protection And Media : Lesson from Last Three Decades , British Journal of Social Work (2001)