

RESCUE OPERATION FOR THE NEGLECTED CHILDREN IN THE RED LIGHT AREA OF G.B. ROAD, DELHI: THE UNANSWERED QUESTIONS

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A Delhi based advocate appeared before the Commissioner, Delhi Police, in March, 1990, and requested him to initiate legal action under the Juvenile Justice Act, 1986, to rescue the neglected juveniles kept in the red light area of G.B. Road. He referred to the Criminal Writ Petition No. 421/1989, pending with the Supreme Court of India, in which it had been urged that the children of the prostitutes and other children in brothels should be brought to the State Protective Homes for care and protection and for the provision of facilities to grow up as good citizens. The Supreme Court had set up a committee to enquiry into the living conditions of the children of the prostitutes and also issued notices to all State and Union Territory Governments to find out what action, if any, had been taken in respect of such children by them.

Reference was made to Section 2(L) of the Juvenile Justice Act which defines the term 'neglected juvenile', i.e., a girl below the age of 18 years and a boy below the age of 16 years, as those who may be found begging, without having any home or settled place or abode, or without any ostensible means of subsistence, with parents or guardians unable to exercise control over them'. A neglected juvenile is also defined as a child "who lives in a brothel with a prostitute or frequently goes to any place used for the purpose of prostitution, or associates with a prostitute or any other person who leads an immoral, drunken or depraved life, or who is being or is likely to be abused or exploited for immoral and illegal purposes and for unconscionable gain."

The request made by the advocate (Vishaljeet Vs. Govt. of India) invoked the legal provisions under which the Police was under legal obligation to take charge of the neglected juveniles in the red light area and produce them before the Juvenile Welfare Board for statutory inquiry, J/s 15 of the Act. According to law, "a police officer, a person or an organisation" authorised by the State Govt. may take charge of such children and produce them before the court. The Board is also legally bound to make enquiries regarding these children and may, meanwhile, send them to the Observation Home or place them in the custody of the parent or guardian or any other 'fit person' or 'fit institution'.

In this case, the Supreme Court later ruled that the children of the red light area will be considered to be neglected children even though they may be living with their parents or guardians. Besides the law, which makes an exception in case of such children, non-governmental organisations (NGOs) also prefer to categorize these children in a rare group of children under especially difficult circumstances".

In pursuance of the request made to the Commissioner of Police and under the provisions of law, the Crime Branch of the Delhi Police decided to act. It first conducted a survey of the notorious red light area, situated in the congested walled city of Delhi, known as G.B. Road or Swami Shradha Nand Marg. The survey revealed that hundreds of such 'neglected juveniles' were living in utterly deprived and immoral conditions in the red light area. These children were suspected to have been kidnapped, forcibly brought there or drifted to the vice dens on account of poverty. They were found being abused and exploited for immoral and illegal purposes and for unconscionable gains. (Contravening S. 41 of JJ Act)

DIG, CBI, New Delhi.

The problem was also discussed with the Chairman, Juvenile Justice Board, and preparations made for a large scale 'rescue operation'. The rescue team comprised nine Inspectors, 42 lady Police Officers and men under the supervision of an Asstt. Commissioners of Police and a lawyer. The team also included some social workers who were already engaged in the welfare of the prostitutes and their children and other neglected juveniles. Due to prior and open preparations, some members of the media, including a team of the popular video magazine, News Track, also joined the operation.

On 15th March, 1990, at about 8.00 a.m., the team, which had the initiative of the social workers, visited and checked all the Kothas of G.B. Road and found hundreds of children kept there. Most of them were found asleep even after 8.00 a.m. in the morning since they had obviously participated in the previous night's life. The police and the social workers took charge of 111 children, including 79 girls and 33 boys, who appeared to be juveniles. As per prior arrangements, preparations were made to produce these children before the Juvenile Justice Board. For the purpose of identification, their names, parentages and addresses were written and their statements were also briefly recorded in the presence of social workers.

Since a majority of these children were also suspected to have been sexually assaulted and abused (some of them might have already contacted sexually transmitted diseases or AIDS), an official request was also made to the Medical Superintendent of the local J.P.N. Hospital to examine these children and ascertain (i) their age (ii) whether they had been sexually abused or assaulted and (iii) if they suffered from STD or AIDS. On account of the large number of children, the Medical Superintendent expressed his inability to arrange for medical examination on the same day and asked the Crime Branch to send them in batches. (dates fixed) Board constituted.

Conducted by the Crime Branch of Delhi Police, the 'Rescue Operation' met with stiff resistance from the prostitutes, pimps, procurers and their supporters. While giving it wide coverage, the media sharply projected the idea that the police had acted in haste and against the interests of the mothers of the children. The prostitutes made an emotional appeal that an attempt was made by the police to snatch their children away from them. The Police, On their part, claimed that they had taken due care, operating with Lady Police Officers, social workers and also permitting anyone claiming to be parent or guardian to meet the children.

In an extremely emotionally charged atmosphere, these children were produced before the Chairman, Juvenile Justice Board, who, on being satisfied that they were neglected juveniles, remanded them to the Observation Home till 30th March, 1990. A request for the medical examination and the statutory enquiry regarding the circumstances and living conditions of these children were also positively considered by the Board.

The intense debates in the media and the demonstrations held by the inmates of the red light area, however, did not permit the legal course to be followed and to be brought to its logical conclusion, i.e., finding the truth about the origins and real living conditions of these neglected juveniles. Neither the statutory enquiry could be conducted nor did the opportunity avail of to subject these children to medical examination in order to identify their ages and to detect and treat the cases of sexual abuse, STD and AIDS infections.

The children, therefore, had to be hastily handed over to the pimps and prostitutes of the red light area, who claimed to be their guardians and parents. The only enquiry which

remained on record was the initial statement of the children taken by the Lady Police Officers in the presence of social workers. This revealed that only in 17 cases out of 111, the parental claims were supported by the children in their statements. It is not known until date how and under what circumstances the remaining 94 children were brought to the red light area. Mysterious origins

The Basic Issues

The Rescue Operation to remove these neglected children, i.e., the children of the prostitutes and others, who were apparently being groomed for becoming pimps, prostitutes or procurers, in the red light area, raises certain fundamental questions which are as follows:

1. Whether these children fall in the category of neglected juveniles? Yes.
2. Whether this category of neglected juveniles may be considered to be children under "especially difficult circumstances" and required to be rescued since they were under grave physical and mental danger?
3. Whether the State, social workers and the NGOs have any legal or moral responsibility in respect of these children?
4. Do we allow these children to remain under the depraved conditions of the brothel houses since the Juvenile Homes are not considered to be safe and healthy?

These issues were raised in another Supreme Court Writ Petition (Civil) No. 824 of 1989 (Gaurav Jain Vs. Union of India and others). The 'News Track' which happened to accompany the rescue team, had video filmed the operation and taken the photographs of the children. Although, they were fully conscious of the social service intent of the police in this exercise, at some stage, they decided to sensationalise and encash upon the event. The Delhi Police decided to stop the 'News Track' from publishing the photographs and thus disclosing the identity of these children which, u/s 36 of the Juvenile Justice Act, is strictly prohibited.

A petition was also filed with the Chairman, Central Board of Film Certification, against the publisher of the 'News Track', requesting the Board to enforce the legal provision prohibiting the disclosure of name, address and other particulars that could "lead to the identification of the juvenile", and publication of "any picture of such juvenile."

The Board of Film Certification (The Censor Board) acceded to the request of the enforcement agency in the larger interest of the neglected juveniles. This was, however, challenged by the 'News Track' in the Supreme Court of India and the matter was taken up with reference to the case, Gaurav Jain Vs. Union of India, since the Supreme Court had already appointed a committee to go into the problems relating to such children. The Convenor of this Committee also filed an application to the Court with similar request. As a result, ultimately, the court ordered that neither the "face nor the body nor any limb of the aforesaid persons shall be shown in the news media/magazine and any other particular which may lead to establish their identity will be disclosed therein."

The issue of the neglected children of the red light area being picked up by the police was also pondered over by the Delhi High Court (Criminal Writ Petition No. 146/90) on a petition filed by the Lawyers Forum for Civil Liberties and others. Justices Malik Sharifudin and M.L. Chawla ruled, "Without going into the maintainability of the writ petition, we may point out that the Juvenile Justice Act has evolved a scheme for dealing with neglected children. The idea is to rehabilitate such children including those neglected by their parents. The scheme of the Act will go into all aspects of the matter and find out if the

child is really neglected and how it shall deal with them. The action taken in the present case is in accordance with the procedure."

During litigation in the Supreme Court of India and the Delhi High Court, the correctness and the legality of the operation was subjected to thorough scrutiny. It was established that the State as well as other organisations duly authorised are responsible for the care, protection, treatment, development and rehabilitation of such children and, the parents and guardians of the children in red light area were very much within the purview of Section 2(L)(IV and V) of the Juvenile Justice Act. The erroneous conclusion drawn that these children were not juveniles could not be established since they were neither subjected to the medical examination in the local hospital (as proposed), nor the statutory enquiry conducted u/s 15 of the Juvenile Justice Act.

It has been held (Sheela Bhalla Vs. Thakur Bhagwan Das, 1965(2), Cr.L.J. 407 AIR 1965 Pun 384) that "it is the conscience of the Police Officer which is to be satisfied". In the said rescue operation, the Lady Police Officers, who were accompanied by social workers and a lawyer, were apparently satisfied. The age of the children in the red light area could not be determined merely on "facial examination" without conducting the medical examination since facial examination could be deceptive (Gopinath Ghosh Vs. State of West Bengal, 1984 Cr.L.J. 168) to determine the age. The evidence was supposed to be properly recorded. Under any circumstances, the Juvenile Justice Board was supposed to make enquiries. As required u/s 33 of the Juvenile Justice Act, the circumstances relating to (a) age of the juvenile, (b) the state of physical and mental health and (c) circumstances in which the juvenile was living in the (brothel houses or in the company of the pimps and prostitutes also needed to be gone into.

Unanswered Legal and Moral Issues As a result of the rescue operation of the neglected children in the red light area of Delhi and the consequent legal battle, the law is well established. It is confirmed that the children in the red light areas are neglected children under especially difficult situations. The State and the 'individuals and organizations duly authorised' by the State (NGOs) have a special responsibility towards the 'care, protection, treatment, development and rehabilitation of such children. Unlike many other categories of neglected children, these children are decidedly under grave threat to their lives, physical and mental health.

The Juvenile Justice Board of Delhi did not appreciate the action taken by the Delhi Police. By and large, the media and the social workers also did not approve of the police initiative. It needs to be found out whether this provision of the law will remain a dead letter as far as the three segments of the juvenile justice system, i.e., the police, the Board and the Homes, are concerned. If it is not police, who, then among the NGOs and the social workers will take the initiative to rescue, protect and rehabilitate these children?