



OUT OF SCHOOL CHILDREN BEFORE THE CHILD WELFARE COMMITTEE

Observations during work with Out Of School Children (OOSC) in Jeedimara Slum (2015)



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Introduction

The document tries to cover our observations of the Juvenile Justice Act or rather our engagement with Child Welfare Committee and CHILDLINE during our work (prior to registration of Trust) with Out of School Children (OOSC) in Jeedimara Slum, Bangalore. The experiences are primarily from work as Volunteer field worker/social workers in 2015 in a 90-day Chinnara Angala Program, Non-Residential Bridge (NRB) Program of the then Sarva Siksha Abhiyan (SSA now subsumed by Samagra Shiksha) in Bangalore, Karnataka. This was in association with another NGO, an organization running community projects and a Children's Home in Bangalore around that time. Our major work was in general with "Out of School Children" in this slum community than with "children in conflict with law" or "children in need of care and protection" as defined by the JJ Act.

Scope

The document largely is around our work experience with Out of School Children, the Education Department and that of the Child Welfare Committee constituted under the Juvenile Justice Act.

Reference: Notification by Karnataka Government Secretariat No. ED 38 MAHITI 2013 inserted rule under 6A to 6D in the Right to Free and Compulsory Education Rules, 2012 to appoint Attendance Authority to monitor attendance of children and their duty to produce OOSC bring parents of OOSC before Child Welfare Committee.

"Out of School Children" as "Children in need of care and protection"

The idea of seeing the "Out of School Children" as "children in need of care and protection" has since 2015 sat in our minds. We believe that a harmonious unison of the Right to (Free and Compulsory) Education Act and the Juvenile Justice (Care and Protection of Children) Act could be a game changer in all the work and efforts in upliftment of poor and vulnerable children.

In Jeedimara Slum, at the same time, around three organizations worked in the same area with children, many times conflicting each other. Their statistics showed over 60 children Out of School, and the reason for dropping out was *not solely a 'difficulty in read write'*.

The Education Department seemed to be satisfied with the idea of tackling the 'Out of School Children' as children with 'difficulty to read-write'. At least in Jeedimara slum, it was not in its scope to do more. But there were other challenges. There were children who fell Out of School due to

1. Sibling Care
2. Child Labour
3. Parental Neglect
4. Drug Abuse
5. Abuse
6. Stigmatized Children in aftercare (who were earlier children in conflict with law)
7. Special and Physically Challenged Children/their commute
8. Begging Children
9. Homes without adequate water facility
10. Corporal Punishments in schools



11. Older Migrant/Other Language Children and Commute to Special or Language Medium Schools, etc.,

Such issues we believed require marking these OOSC children as “Children in Need of Care and Protection” and provide them Rehabilitation right from their home. The same set of issues happened again and again that all the OOSC Survey forms had representing code number on why child was out of school. However, help was not a reality for all of them. In very few areas, NGOs (sometimes volunteers) co-worked and took up some of these issues. In other areas, the numbers were simply ignored and these children remained invisible.

Rehabilitation from Home as a priority

Often the children in the children’s homes are not ‘orphans’. Can the need for Children’s Homes be reduced to bare minimum? Can we provide the help and care that these children need right from their very homes? While restoring the child to the biological parent has been the top priority of the JJ Act, solving the problems these children face while in custody of the biological parent has hardly been a priority. Our sincere desire has been to provide help and support to these children right in their homes in the custody of their biological parents, instead of having to institutionalize them and take them into Children’s Homes. We think that the safest place for the child is with his or her parents (in line with the same spirit with which JJ Act was made). Observing cases of abuse, it is sad to see that we are in a world where to protect a child from abuse, we confine the child and let the abuser roam free.

We think the priority of the Child Welfare Committee must be to reach the child in their homes while in the custody of the biological parents and ensure him a safe and secure environment. This may require sufficient social workers and psychologists on field instead of being sparingly in premises of the Reception Centres alone.

Power to provide Rehabilitation

There seems to be a lack of clear mechanisms available for Rehabilitation via the JJ Act. The Child Welfare Committee is expected to hold powers to bring rehabilitation to a child in need of care and protection. Many times, the Child Welfare Committees remained silent spectators without necessary power to take up such simple measures such as directing the Anganwadi (called Balwadi in Tamil Nadu and which is there under the ICDS) to provide necessary remedy and corrections. If food was an issue for a Begging Child, the power to give remedy would be to be in a position to order the authority to issue a ration card. The difficulties in the logistics of such grants simply required genuine addressing and the power to provide such rehabilitation by the Child Welfare Committee should be in the true sense available to the Committee.

Open Shelter, Foster Care, Sponsorship and Aftercare have been mentioned in the JJ Act CHAPTER VII REHABILITATION AND SOCIAL RE-INTEGRATION. But such remedies like sponsorship are not freely exercised in reality. While the prescribed conditions for grant are to be framed. Often in practice, the tendency was to avoid the grant to prevent abuse. NGOs have repeatedly pointed to the unused funds earmarked for such scholarship disbursement year on year.

Government - the ultimate refuge – Remedy to be provided by the State

From the CWC cases we took before it:

1) In a case where a child went begging for milk for infant sibling in a Bakery, they were unaware that they were entitled to milk powders for their toddlers from the **Community’s Anganwadi** and such came to light after the involvement of NGOs and Volunteers in the area.



2) Where there were Begging Children, many of them were without ration cards, possibly due to the land ownership and land mafia etc., Food Security, a basic entitlement was not available to all. However, the CWC was unable to make efforts to alter the condition.

They appointed NGOs to address such needs and there was obviously no binding on those NGOs to ensure it happened. They were restricted to the extent of the resources in their hand and other reasons. And there is no tracking available to understand its status if at all any change can be expected.

3) In a case where CWC promised physiotherapy for a special child through a neighbourhood special children NGO but later wrote a recommendation to NIMHANS Hospital. Such help could best come through the **local Community Anganwadi or Primary Health Centre**. But no such remedies are made available through the CWC.

4) Sibling Care sometimes required **caretakers and day cares** where Anganwadis couldn't cover. An option, a woman in the higher income group could enjoy, such options were largely absent for the vulnerable and poor women. If not daycares, a **complete financial assistance of her sustenance** until the child reaches the age to get admitted to Anganwadi was absent or not presented. Creches as a part of the workplace, has been enforced via the Maternity Benefits Act, 2017, but the young mothers in the unorganized sector need to be considered carefully when it comes to infant care. In case these young mothers are single, they easily resort to sex work/such other work during pregnancy and early motherhood period.

Daycares, caretakers or sufficient financial assistance are some options which are hardly explored. There is an **Indira Gandhi Matritva Sahyog Yojana (IGMSY)** brought with that purpose, but its existence is hardly known to people.

4) In a first, a **Special Sitting was arranged in the slum community (a Hon'ble action by the then Committee Chairperson Ms Jessintha)**. Such Special Sitzings can be more helpful to the Attendance Authority.

5) In a case where child was a victim of drug abuse, the child had to be rescued and institutionalized and half the resources was spent on bringing the child under control. While this could be a better remedy, the possibilities of counselling and Out-Patient Psychiatric and Counselling services may bring better participation from such victims in the matter. The possibilities of such from local Primary Health Centers and local Anganwadi and schools are not a possibility for the CWC.

6) In a case where corporal punishment or stigma kept children out of school, the necessary counselling and awareness need to be created in the educators and school. The onus of reaching other related institutions like the Child Rights Commission should be with the CWC instead of the complainant/public.

7) In cases where children were older, training and capacity building may help the child to stay in school or to cope aftercare. In case of long-time dropouts, bringing **Open Schooling (NIOS or State Open Schooling/Evening School)** in their local schools may help. Keeping the child in school brings the child into a safety net.

8) In a case where a SAM (Severe Acute Malnourishment) child approaches the CWC, the CWC must be able to order remedy through Anganwadi provided if it has not already happened. And through PHC any medical follow up required.



8) Digital processes and portals to take such requests from social workers and to address those requests in a set time frame will help address issues of children irrespective of politics and lack of will or risk taking by authorities.

As a field worker, it is futile and absolutely useless to work without any neat and authentic mechanism to help children. Any effort to produce children before the Committee will be fruitless and even damaging if no significant remedy can come.

Role and Powers of the Child Welfare Committees

Their role, as we saw in Bangalore, had diminished to that of a mere advisor, a counsellor and the rescue of children in itself being the only action they could strongly take. The confinement and trauma, they hoped will help mainstream the child with the rescue being a disruption of their sad routine, an inconvenience and thus a deterrent for the neglecting parents. It did work in a few cases and in many other cases, they were back to their routines after restoration to parents. In serious matters, CWC dealt better. And since Out of School Children was a matter of the Child Rights Commission as well, they were keen on transferring the issues to the Commission claiming lack of clear jurisdiction over such matters.

While the District Collector holds some of these portfolios, his association with the CWC is not clear from the Act.

Without any power to order around Departments that are connected, the Child Welfare Committee (CWCs) can easily become an irrelevant institution when it comes to such children outside Child Care Institutions/Homes. It must be noted that these are the same type of children that are rescued under JJ Act in association with CHILDLINE.

No plans for the different categories of OOSC

While the OOSC forms of the Education Department (Karnataka) had clear categories marked as reasons for dropping out. Solutions to these problems **were neither available readymade nor catered according to need**. And no one could be held accountable for addressing the allied problems keeping the child out of school. The procedures due from **Attendance Authority** is hardly implemented in the slum we worked in Bangalore. Its position in Tamil Nadu is not clear to us.

Onus of proof and transfer

The onus of transferring the issue to the right department and to provide the solutions on the platter should be the target of such institutions.

The onus of proving OOSC children are not Out of School or that a rescued child is back in the employer premises is also easy to prove by the school HM/Childline or CWC than by the complainant. In such matters of criticality why not take up the burden of proof on the hands which can easily discharge it?

No consultations with organizations working with children

Those who raise issues regarding the matter are immediately distanced by the Departments from any regular meetings and conversations initiated for such matter by the Education or ICDS Departments. While we are clearly an organization registered with the object to work with children and families, we receive no invitations to consultations associated with such matters. Such consultations have been mandated in civic/consumer forums. Similar mandates are required for NGOs working with children.



No Accountability for OOSC

There are some expectations in Karnataka, with regard to Out of School Children (OOSC) due to the **Suo Motu Case on OOSC in Karnataka High Court** worked upon by civic society organizations like CIVIC, CRT in Bangalore. There is an Attendance Authority (files attached) in Education Department who is expected to produce the children in front of the CWC for remedy (RTE Rules of Karnataka). However, in practicality this wasn't anywhere in practice.

The Child Welfare Committees and JJBs were faced with graver issues and hence continued to ignore these so-called smaller problems. And who will take care of these so-called smaller issues is unclear despite clear mention in the State Rules of Karnataka – the Commission? The CWC? The OOSC (Out of School Children) children were children expressly present and in need of care and protection, their needs for care and protection, crystal clear yet is carelessly or otherwise ignored. A clear coordination between the respective departments should not be an issue to the rescuer/social worker. Work needs to happen to protect the child. It is sad that social workers are having to run from pillar to post in an attempt to unearth information which will help them help the child. Transition between departments should be easy and smooth and be possible from a single portal.

Clarity as to who is Accountable in each of these matters is key to bringing accountability. Closing the system on grounds of confidentiality brings lesser accountability in the system as it cannot be subject to tracking and review by the complainant.

Out of School Children (OOSC) Surveys

The OOSC Surveys comes in as a great opportunity to identify children who are in need of care and protection. This identifying helps easily in bringing the necessary welfare programs for these children.

Persistent efforts by social workers and teachers have created a change of heart in the parents and children towards education. To not connect the OOSC surveys with the JJ Act can be a loss.

Universal Day Care and Care Takers

Considering that the JJAct wanted to keep the “under six” children away from institutions, care of such infants has to be seriously considered by the Women and Child Welfare Department to ensure care of children when it comes to working women in the unorganized sector. If custody with mother is considered best in such tender age, the financial support to take care of such infants must be ensured without delay in an easy and authentic manner.

Many in this slum worked in choulteries (Kalyana mantapams allied work). Their work was thus seasonal and they would simply leave children in their homes while they are away at work. Single women Domestic workers in such slums didn't plan to get the kids ready to school since they were unavailable during that time of the day.

Anganwadis served children above at least 2.5 years and hence children below this age were left in the care of their older siblings. Universal Day care or a system of caretakers can alone help such setup especially since these women are seasonally employed and take up odd jobs.



Daycares, caretakers or sufficient financial assistance are some options which are hardly explored. There is an **Indira Gandhi Matritva Sahyog Yojana (IGMSY)** brought with that purpose, but its existence is hardly known to people.

The power to make interventions and be in a position to engage necessary resources is a necessity for the Child Welfare Committee.

Confidentiality and CHILDLINE

In matters of rescue, there is again no accountability. In a case where we reported a child labour abuse in Bangalore from Chennai based on a tip-off from a neighbour, the child that childline claimed they rescued was spotted again in the same premises. When we sought an explanation and photo evidence from childline, we were refused the same citing confidentiality. Further, they sought photographic evidence from our side to ascertain our claim.

Presently, FIT Persons and FIT Institutions are certified where they are made eligible to take custody of such vulnerable children. Similarly, if our organization can get a FIT Institution certificate for the purposes of reporting and following up with a child whom we reported about, it may bring in more accountability into the system and at the same time not breach the clause of confidentiality when it comes to matters of the child.

As we understand it, tracking which was previously present was removed on the excuse of 'Confidentiality'. Can such Confidentiality be ensured and at the same time the tracking by genuine institutions be restored?

Online Redressal for Social Workers

While there is now an online grievance redressal system for a general public to complain about and track their civic issues, we had nothing of that sort for such an important problem – care and protection of children. No one in the Departments could be held accountable or insisted to get these things done.

It was always the parent's fault and the Child Protection Services had nothing much to offer. Producing the child before a Child Welfare Committee or the Child Protection Commission as an Interested Individual in such cases of vulnerable children seemed a total waste of time and effort and only added to the child's trauma, where high hopes often ended up with nothing much but failure - a very demotivating environment to work in.

Online redressal will be probably challenged by ideals of confidentiality with respect to these children.

Where genuine social service organizations are included, there can be more accountability in the rescue and rehab system. This is not a matter of National Educational Policy or such other policies. It is a matter of right.

Even today in many offices in Tamil Nadu, they have no habit of giving an acknowledgement to a letter submitted at their office. We, as social workers cannot go around having to argue and fight at every office for some basic rights. It is a very tiring experience and the online redressal systems have given some hope. And also, we social workers can comfortably escape conversing with many insincere and indifferent officials in between.



Child Care Institutions (CCI) – Survey as Per SC Order

We were also part of the CCI Survey conducted by Childline Nodal in Bangalore. In the course of the same, we got the opportunity to inspect a few CCI homes.

1) Some of these homes were run by men who reported as sleeping with children as they were like “Daddy” to the children. This was marked in our reports back then. Regular inspections and one-to-one meeting with the children of CCIs is important. Though there are provisions, there were over 200 homes in Bangalore at that time. Do we really have a mechanism to ensure inspections of all in a reasonable and periodic manner? Making regular inspections and appointing collaborating NGOs in the area to be part of such inspection committees may help greatly depending on the credentials of such supporting NGOs. Ensuring that such NGOs on committee are not simply the “non-problematic and conforming” ones may require a robust selection system which is open as well as stringent to select such NGOs.

2) The Government Reception Home’s Inspection was the most haunting one. We saw children use the toilets before lunch. When we went to inspect the toilets and bathrooms, they were very unclean with shit all over. The warden indifferently told us that the water is turned off to avoid wastage and hence the situation. The toilets were broken. Grocery suppliers complained of non-payment. Our visit was with notice and not any surprise visit. The indifference to such lapses in Government Homes was disturbing. And skin problems were existing among children.

3) There was a case of one kid weeping citing that he was taken into custody and had some upcoming board exams.

4) Children were asked to hit each other instead of the wardens since corporal punishment was restricted. Such should be treated as corporal punishment by the warden himself.

5) a) In a case, a girl admitted to the Govt Reception Home, who had a beautiful haircut was made to have her hair cut thin down to almost nothing, on the excuse of ‘gajji’ (skin problems). Can we incorporate dignity?

b) Also, the talk of children was that anyone who bathed with the water in the tank got the ‘gajji’ (kannada word). Children were sent to adoption agency on the excuse that they were sent there to treat their ‘gajji’. Handling ‘gajji’ strongly can save many excuses. It is expected since there are children rescued off from streets living in poor hygiene.

6) There was also a case where, an adoption agency reported possibilities of sexual abuse on ‘under six’ children from the child’s former hostel. Since the age of the child was below six, these parents admit the children to hostels/homes without producing these children before the CWC or via them. The parents give some consent letter and admit children directly to such hostels. Such letter agrees to not hold the management of the Home responsible for any actions of the child or if child runs away. Hence with or without the knowledge of the Child Welfare Committees, in institutions, children are admitted directly. And since present JJ Act does not recommend institutionalization of ‘under six’ children, such admission happens illegally bypassing the CWC.

Social workers in these homes accept this practice and cite that sometimes these women/parent have to admit a ‘under six’ child to hostels/homes. And the restriction has created a serious lacuna in the protection of the ‘under six’ children. Especially when there is no Universal Creche Care.



7) There seems to be a direct admission in regular cases too, possible in many homes. The Home Personnel find it convenient and the status of the child does not have to be reported regularly to the CWC unlike when done via the CWC. This helps them avoid complications when children going for holidays prefer not to return (a usual scenario). In case this happens when the child has been admitted via the CWC, the Home personnel have to visit the child's home and work to bring the child back or to ensure proper custody transfer of the child.

Knowledge of Child Welfare Committee in public is not common. Mostly they are unaware of such protection mechanisms guarded by the Child Welfare Committee, which are in place to ensure safety of their ward while in any institution. Hence parents do not hesitate to admit children without intervention of the Child Welfare Committee.

8) None of these institutions truly have an accessible hotline to call CHILDLINE if emergency occurs.

9) Staff in the homes were contractual and changing. That looked like a safety issue since it is not clear if background checks are sufficiently run every now and then when such contract workers under private agencies change. Work in the Government Reception Homes is a very sensitive one.

10) There is no proper follow-up of cases after a child is released from the Reception Home. School HMs hardly intervene or intimate, citing burden of work or possible threats. We tried to make an attempt to link the child with the school and track via school. We couldn't continue work further for various reasons and relocation.

Reporting of Missing Children to Commission or CWC

Missing children who were not reported to Police but reported to the State Child Rights Commission were not booked with the Police promptly by these institutions. After repeated follow ups and RTIs, some action is taken to update the complainant. When no one takes responsibility for filing a complaint at the Police Station but brings such matter to the notice of the CWC or Commissions, the same must be handled Suo motu by Committees or Commission.

Anti Human Trafficking Unit (AHTU)

In Bangalore, the police unit in the premises of the Child Welfare Committee, near the Government Children's Home was moved. Here, in Coimbatore, there is a Police Station close to the Don Bosco Illam. The Child Welfare Committee does face matters which require enquiry by Intelligence Units. Also, in case of any issues at the Committees sitting, after information Police took time to reach its way to the committee from the nearby Police Station after the Police Unit got moved from the CWC/Home Premises. This requires sincere attention and work.

When a parent fails to produce a child before the Child Welfare Committee, the case used to get simply closed as 'absconding' with no further action. Often these parents used the same phone number and continued their ways without caring about the actions of the CWC. If the authority is to be taken seriously, the authority must be able to perform more serious action. Action need not harass the parents, but inaction can be dangerous to the safety of the child. Presence of a Police Unit working in close association with the Committee is essential to their smooth functioning. Tracking such parents required registration of FIR and a small doubt on the side of the social worker was not enough to track the parent officially. Even though an order was given by CWC to Police to check on the child and parent, the Police did nothing more than check the mentioned address.



Also, Committee members were worried that punishing the parent gravely can remove the custodian present for the child. Hence many members find such punishments not very helpful to restrain parents from wrong doing.

There were instances where pregnant women known to social workers absconded temporarily, delivered and returned without the baby. Information to CWC on such disappearance of baby was another futile exercise. And the investigation by AHTU required a FIR on the woman. Can we strike a balance in such matters?

Awareness on giving children in adoption – throwing away babies

Till date, dropping off babies in garbage dumps and sewages, soon after they are born is prevalent. Steps could be taken to reduce this by giving greater awareness to people on dropping off babies at CWC custody or caged cradle spots which can by technology auto lock and await immediate assistance from Police and where they can be safe from dogs. Abandoning is an offence and hence the same is to be planned safely else may end up as a weak link in ensuring safety and protection of the child.

Marking Children Free for Adoption

Adoption Agencies, like mentioned already, require good attention. In a case where, where a mother had to flee to avoid the wrath of her money lenders due to some altercations and allegations of illicit relationship, we had to file an FIR citing ‘abandoned child’ based on a letter from CHILDLINE. This, it was said was necessary to institutionalize the child. The children included children less than six years of age were sent to an institution. JJ Act was unknown to us back then. While one of the married step-sister took our help to admit these children. Unexpectedly this NGO, dropped the children in the Government Reception Home citing some logistic reasons. After many days when the mother contacted us, two of these ‘under six’ children, we found, were sent to an Adoption Agency Home and they had already made paper publication etc in an attempt to process the child’s adoption despite clear ‘Home Study Reports’ sent to the Committee (no proper portals present).

Thus, the children were marked/under process of declaring them ‘free for adoption’ based on the ‘Abandoned Child’ FIR.

It was maintained that the child was transferred to custody for treatment of skin problems etc. Why work to declare ‘paper publication’ if it was treatment alone?

Declaring ‘free for adoption’, with an ‘abandoned’ FIR and paper publication requires serious reconsideration and breaks the very spirit in which JJ Act was made – the intent to restore the child primarily to the biological parent. What level of investigation can be done when clear whereabouts of the child and its relatives are informed to the Committee as well as Police by the social worker. Such vital information has to be attached to the child wherever the child is transferred.

Proper counselling services are required to work with parents who are considered as ‘abandoning parents’ who may be disinterested in raising the child. With their consent, adoption is expected and must be done in the same spirit practically too.

In cases where, raising the child is considered not done properly, some support and rehabilitation and counselling could be considered to keep the child with the mother unless it is against the best interests of the child. Such evaluation of ‘best interests’ needs to obviously be on a very strict interpretation.



Training to NGOs on JJ Act and allied laws

Many times, there is a lack of awareness in field workers and social workers and NGOs on the expectations of the law. This can be very damaging to the child. Time to time ongoing trainings can help better collaboration.

Widespread dissemination of information on Child Welfare Committee

There is a lack of awareness in general population about the Child Welfare Committee. The knowledge of the same is vital to ensure that parents are not engaged in illegal admissions to Homes.

Conclusion

Thus, when it comes to care and protection of the Out of School Children in slums, as social workers we faced many hardships demotivating us to make intervention of any sort. With a defunct system, any intervention can prove to be more damaging and hence no further progress can be expected. Bringing efficient systems in these spheres will help us further our commitment to protect children in need of care and protection. Some remedies like sponsorship have already been mentioned. However, in practicality there is more resistance in implementing these rehabilitation measures than cooperation and some rigid norms in these spaces could do some good and set the work in real motion.

