

## JJ ACT AMENDMENT MAY BACKFIRE

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Reporting instances of abuse and cruelty by staffers or persons in-charge at child care institutions (CCI) is not easy. While the victims themselves are unable to directly report them due to the imbalance in power, most such crimes are reported to the police by either parents or child rights bodies and child welfare committees (CWC).

On the one hand, the parents of these children, who are mostly daily wage labourers, are either unaware of how to, or not inclined to, report the crimes to the police. On the other hand, the CWCs' first instinct in most cases is to "talk and arrive at a settlement" without having to escalate the matter to the police.

With the 2021 amendment to the Juvenile Justice (Care and Protections) Act making these crimes non-cognisable along with several other serious crimes under the special law, experts and child rights bodies have raised the alarm saying this would make reporting them to the police even more difficult.

"The current system of reporting crimes committed by staff at CCIs already causes delays in registering FIRs (first information report) and sometimes FIRs not being registered at all," Bharti Ali of the HAQ Centre for Child Rights, an NGO in Delhi said. Bikramjeet Singh, CWC Chairperson in Bathinda explained that once they get to know of such cases — either through NGOs, the children or their parents — meetings were convened with the victim in the presence of the District Child Protection Officer (DCPO), following which both the CWC and the DCPO decided whether the matter needed to be reported to the police. "In most cases, we figure out a way to talk to the children and solve their problems without having to file a police complaint," he said.

### Pan-India problem

Anurag Kundu, Chairperson of the Delhi Commission for the Protection of Child Rights, added that this was a pan-India problem, saying, "This amendment encourages such thinking and will discourage officials from reporting such instances to the police."

Ms. Ali said that in some cases, NGOs or child rights activists decided to report such instances directly to the police given that they are a cognisable offence (until the amended JJ Act is notified). "But the police will look for someone to be made a complainant even when they can verify the complaint and register an FIR if it is a cognisable offence," she said.

But according to the Code of Criminal Procedure, once the crimes are rendered non-cognisable, the police will be able to register an FIR only on the directions of a magistrate and a complainant will first have to approach the magistrate concerned to start the process.

Ms. Ali explained that most children at CCIs whose parents are daily-wage labourers do not want to engage with the legal process because that would force them to take time off from work, resulting in loss of wages. "So, they are already discouraged from getting an FIR registered because that would mean they have to appear in court. Now, if another step is added, it will further discourage them," she said.

Despite these circumstances, data from the National Crime Records Bureau (NCRB) show that

since it started recording these crimes in 2017, they had risen by over 700% by 2019. The NCRB in 2017 recorded 278 cases of crimes committed by CCI officials in-charge across India involving 328 child victims. These cases rose to 1,968 by 2019, involving as many as 2,699 child victims.

State Commissions for the Protection of Child Rights in Delhi, Punjab, Chandigarh, Rajasthan and West Bengal have already publicly spoken out against the 2021 JJ Act amendment and have even flagged it to the Union government. Moreover, the Delhi Commission for the Protection of Child Rights has also challenged the amendment in the Supreme Court.

### **Offences reclassified**

Specifically, the amendment under challenge is the one to Section 86 of the JJ Act, according to which crimes under the special law, with punishment between three to seven years, have been reclassified as non-cognisable. These crimes include cruelty to children by CCI staff (Section 75), employment of children for begging (Section 76), using children to smuggle or sell intoxicating substances and narcotics (Section 78), sale and procurement of children (Section 81), exploitation of child employees (Section 79), use of children by militant or other groups for illegal purposes (Section 83), and giving children intoxicating/psychotropic substances or narcotics (Section 77).

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