
CHAPTER – 6

ROLE OF NGO AND GOVERNMENT ORGANIZATION TO COMBAT JUVENILE DELINQUENCY IN THE STUDY AREA

Dr APJ Abdul Kalam said, “Children are future bone of the Country”.

Delinquency involves a behavior pattern which is harmful to the society and if the juvenile has the habit of taking drug and alcohol then it becomes more harmful to the society. So they need to be rehabilitated. Rehabilitation is the right way if juvenile goes the wrong path and needs to be brought back to the right one. It is a challenging situation when an individual must learn to live an addiction free life after going through the treatment. A complete treatment and training is provided to clients, wherein they are given occupational, vocational and physical therapy depending on each ones' needs. The NGOs and the State Government are the two main stakeholders to show the right path to the addicted juveniles and also play important role for the rehabilitation of juveniles.

Non-Governmental Organizations, popularly known as NGOs or NGDO are basically development-oriented voluntary organization. The term 'voluntary' means serving or acting in a specified function of one's own accord and without compulsion or promise of remuneration arising from natural impulse, acting or done without any legal obligation¹. A voluntary organization is a social service and developmental institution motivated to meet the needs of the most disadvantaged in society, either through direct services to the people or through facilitative / indirect services to other voluntary organizations or Government , non-profit making and not undertaken to be fully funded

¹ Chandra, Puran (2005), *NGOs in India*, Akansha Publishing House , New Delhi, at P.1.

for its maintenance directly or indirectly by the Government.² In countries like India there are numerous gaps in the process of policy making, making awareness and enforcement of laws related to human rights. These are the gaps which NGOs try to fulfill. To fill the gap NGOs access the laws, organize awareness camp providing legal advice, reaching services at door step of victims of human right educating human right as a subject and by filing public interest litigation in various High Courts and Supreme Court. Most of the services are provided by the NGOs in recent era.³ Non-Governmental Organizations have come to occupy an important place in India. The spreads of NGO activities in the Country, as in many other parts of the World, are manifest in a number of spheres and in a wide spectrum of programmes. The advantages of voluntary organizations are many. In comparison to Government, NGOs are in a relatively better position to personalize the provision of services, they offer to the people.⁴ The principal advantage of NGOs lies in their proximity to people and their sensitivity to the needs of the community. A prominent feature of the Non-Governmental sector is its capability of bringing people together and motivating them to participate in the development.⁵

The National Children Policy, formulated in 1974, envisaged the involvement of NGOs and peoples' participation. The Policy states, the voluntary organization engaged in the field of child welfare will continue to have the opportunity to develop, either their own or with State assistance in the field of education, health, recreation and

² Bhose, Joel S.G.R. (2003), *NGOs and Rural Development, Theory and Practice*, Published and Printed by Ashok Kumar Mittal, New Delhi, at P.38.

³ Singha, Seema S. & Nath, Chimun Kumar (2011), *NGO in North East India*, D.V.S. Publishers, Panbazar, Guwahati, at PP. 134-135

⁴ Sooryamoorthy, R. & Gangrade, K.D. (2006), *NGOs in India : A Cross –Sectional Study*, Rawat Publications, Jaipur, at P.1.

⁵ Salamon, Lester M. & Anheier, Helmut K. (1997), *Defining the Non-profit Sector : A Cross-national Analysis*, Manchester University Press, England, at P.3.

social welfare services. In 1978, the government set up a National Children's Funds at the Center and State levels to be utilized by NGOs.⁶

The family and community play important role in the rehabilitation process of addicted juveniles. Again the rehabilitation process requires the support of doctors, friends, relatives etc. When these cannot give time to delinquent juveniles, there is need of NGOs working in this field for Drug dependent persons. The de-addiction centers run by Non-Governmental Organizations employ various systems of medicine such as allopathy, homeopathy, ayurveda, naturopathy and yoga coupled with a range of psychotherapies to cure addicts. The Drug Abuse Information Rehabilitation and Research Centre (DAIRRC) is one of such registered Charitable Trust that is involved in rehabilitation of addicts. It was founded in 1982 in the city of Mumbai. This centre provides a wide range of rehabilitation services such as heroin addiction treatment, cocaine addiction treatment, solvent abuse treatment, treatment for addiction to prescribed medication, methadone addiction treatment and treatment for addiction to all other Drugs of Abuse. If drug addicts are to be completely rehabilitated, it is necessary for the local community to be involved in the treatment and social integration of addicts. To promote such an initiative a number of events are being regularly organized at the community level through voluntary organizations . These camps provide counseling, treatment and rehabilitation facilities to drug addicts in the localities they live in. Building awareness and creating therapeutic communities are other concepts that help in the rehabilitation of addicts. Self-help techniques have proved to be quite useful in the treatment of different types of addictions. A popular group that offers such techniques is "Narcotics Anonymous". This group conducts private meetings where addicts learn from other addicts how to remain drug free and recover from addiction. These

⁶ Supra note 4, at P.124.

meetings are conducted regularly in cities such as Bangalore, Mumbai, New Delhi and Chennai. Currently, the ministry supports 361 voluntary organizations that maintain 376 De-addiction-cum-Rehabilitation Centers and 68 Counselling and Awareness Centres in different regions of the country. The Government also runs 100 De-addiction Centres at its hospitals and Primary Health Centres for those who need long-term rehabilitation. The National Centre of Drug Abuse Prevention has identified 8 NGOs with strong technical capabilities to provide training and information at regional levels, monitor programmes and implement the Drug Abuse Monitoring System. Some of these NGOs are the Calcutta Samaritans, Mizoram Social Defence and Rehabilitation etc.

6.1. Important Role of different NGO

During the research work the researcher has visited number of NGOs working in the district of Kamrup (M) to study their role in rehabilitating drug and alcohol addict delinquent juvenile. The role and functionalities of these NGOs, visited by the researcher, are discussed below:

6.1.1. Kripa Foundation

The researcher for the research work visited one NGO namely the Kripa Foundation at Hatigaon Chariali, Guwahati on 18/06/2019 which NGO is concerned with Substance Abuse and AIDS Counselling and its Treatment. It functions as a De-addiction as well as rehabilitation centre of addicted persons. It doesn't allow outsiders to meet the under treatment persons. Here, researcher met Miss Jagrata Bora, who is involved in Research & Documentation. She has been serving there for more than 10 years and her father was also actively involved in this centre and now he is no more. She has given a lot of information about the Kripa Foundation. This information is described below-

Over the last 4(four) decades, chemical dependency has grown at an alarming rate throughout India. Addiction affects and afflicts anyone regardless of age, race, caste, sexual identity, religion or lack of it. In this NGO there are students of IIT as well as layman also. As such chemical dependency has spread in this region at an unprecedented growth rate despite growing awareness. Assam is no exception and apart from addiction to the traditional drugs of alcohol, opium and ganja the greatest threat however seems to be the volatile inhalants such as dendrite and erazex, which are being abused and inhaled by kids as young as 7 years. Addiction in Assam is not contained to the emerging metro of Guwahati but is prevalent in various degrees in almost all the small district towns all over the State. There are several hurdles towards finding effective solutions to deal with this ever growing menace which is a serious problem as thousands of youth succumb to the impulsive and compulsive craving for the mood altering substances. Thousands of families who had pinned such high hopes and dreams on their children are today suffering in shame and growing phobias, desperately seeking answers even while hiding the illness in their homes behind facades of normality. Thousands of potential assets to society and family are becoming liabilities to all and even themselves, as the degradation makes them also lose their self-respect and esteem-values which are so necessary for anybody to strive forward in life with faith and belief.

The Kripa Model of treatment which has evolved over the years is for a period of 3 months in residence which includes 28 days of primary care of detoxification and de-addiction followed by rehabilitation after care period of 62 days. The model is holistic in nature with interventions focused on the client. Kripa accept the 'disease of addiction' as a primary disease.

Objectives include providing care treatment and support, interfacing with community through prevention modules, developing and implementing training

modules so as to generate human resources, include research in all aspects of service and maintain humane standards.

6.1.2. Hope Foundation

During the research work, the researcher visited the NGO namely 'Hope Foundation' on 18/06/2019, which is established in 2017 at Ambikagiri Nagar, Guwahati. This NGO provides various kinds of services to delinquent juveniles such as family counselling, Alcohol De-Addiction Treatment and Nicotine /Tobacco (smoking) De-Addiction Treatment etc. Unlike Kripa Foundation, this NGO allows outsiders to interact with its inmates. The researcher met the owner of the Hope Foundation, Mr Dipankar Baruah and Miss Mridusmita Dutta, Juvenile Counsellor. They have given a lot of information about the drug and alcohol addicted young persons and their treatment under the NGO. Mr. Dipankar Baruah , himself was an addicted juvenile, when he was a student of the Delhi University and was a National football player also. He was rehabilitated by the Kripa Foundation which was also a De-Addiction Centre. He shared his personal experience how the juvenile learn the habit of taking drug and alcohol and regarding various places of production and distribution of drugs. He said that he learned his habit of taking alcohol from his seniors during the practice session of football because he has no knowledge about the drug and alcohol. According to him, during teenage there is a curiosity to taste every new thing. Because of this curiosity they start taking drugs and alcohol from the instigation of peers or seniors and gradually became alcoholic and drug addict.

He informed that only counselling cannot rehabilitate the addicted juveniles. For complete rehabilitation, detoxification is also important and is the first stage of treatment of addicted juveniles. Detoxification safely manages the physical symptoms of withdrawal associated with stopping drug use. Although detoxification alone is rarely

sufficient to help addicts achieve long term abstinence. Counselling and other behavioural therapies are the effective treatment for addiction.

He also gave the valuable suggestion how to stop the use of drugs. He suggested that drug education should be included in school curriculum. The children must know the meaning and consequences of the use of drugs. This may ensure that at least 90% child will not use the drug. He told that he had requested the Govt. several times to take initiative to stop the use of drug. But still Govt. is not serious about this matter. He informed that it is very difficult to stop the supply of drug and availability of drugs throughout the World. Even in Guwahati also it is easily purchasable. One important thing he spoke that drugs are more dangerous than alcohol. If the juvenile use the alcohol easily it is visible in physical reaction but in drug it is not visible. In later stage, the family brings juveniles to rehabilitation centre.

He also informed about another problem of after rehabilitation. After rehabilitation, they return to the family and community, but the family and community do not fully accept them. On the other hand they are neglected. Therefore, they again return to use the drug. He opined that family and community's good treatment and love to delinquent juveniles may help them to rehabilitate.

6.1.3. Asha Bhawan, Assam, Guwahati

Asha Bhawan, also known as "the house of hope". It was established in 1999 in Dehli. Assam is one of the 20 houses that is part of the Asha Bhawan program.

The main function of Asha Bhawan is Rehabilitation of Drug Addicts. Here rehabilitation is taken through steps by building relationships, faith, work, multiple therapies, and counselling. Asha Bhawan is a place of empowerment through hope, relationships and learning life skills.

During the visit to the NGO namely Asha Bhawan, Silpukhuri, Guwahati the researcher interacted with the drug addicted and alcoholic persons residing there. From the interaction, the researcher came to know that most of the drug addicted or alcoholic persons were deviant in nature during their childhood and they didn't obey their parents and teachers. Gradually as they grew up they acquired the habit of taking gutka, dendrite etc. Then gradually they adopted the path of taking drugs and alcohol. Once they acquire the habit of taking drugs and alcohol they started demanding money from their parents to buy these substances. If parents fails to give money for this purpose they at first starts stealing and selling house hold objects like ornaments, utensils, mobile, T.V. etc. This habit gradually makes them involved in various crimes like theft, extortion, dacoity etc. The researcher came to know from the inmates that for the purpose of rehabilitation they are kept busy in various light works like cleaning of house, washing cloth, gardening etc. Regular timely prayers from the sermons of Bible are done by them. The researcher came to know that when such addicts are initially brought to the Bhawan their behavior remains violent as they do not get the drugs. They feel pain in their lower part of the body. But with the passing of time and under treatment their behaviour becomes normal.

6.2. Role of Government Organization

Besides the Non-Governmental Organization, the Governmental organization also play important role for rehabilitation of addicted juveniles. State Government is the authority on whom the act has entrusted the responsibility for smooth functioning of juvenile justice system. It is the State Government that has to provide necessary infrastructure and ensure that all the stake holders discharge their duties efficiently in the best interest of the child. Role of Govt. in rehabilitation of addicted delinquent

juveniles is expressed through different government officers as well as institutions.

These are discussed below-

6.2.1. Probation Officer

Probation service originally started as a part of religious missionary service.⁷

Probation Officer plays an important role in juvenile justice system beginning with apprehension by police and continues to supervise the juvenile till his rehabilitation and social reintegration. He acts as the friend, philosopher and guide of the juvenile.⁸

A.E. Jones defined the role of a Probation Officer, in regard to juveniles as “the relationship between the Probation Officer and the probationer will have little value if it is regarded as a matter of carrying out the terms of a contract for a certain period .The essential power of the Probation Officer is in his personality, if he can inspire devotion in his charge, if the probationer becomes filled with genuine desire to gain his approval, if the parents accept him unreservedly as a wise friend of the family and profit by his suggestions on the upbringing of their offspring, if the probationer does not look on him as a sort of policemen whose watchfulness it is almost a point of honour to cheat, then the Probation Officer may hope for a true success...the Probation Officer can only cure delinquency by effecting a change of heart either in the child or the parent.”⁹

The role of Probation Officer is of immense importance. The Probation Officer is supposed to be in the knowledge of the case from the time of apprehension of the delinquent juvenile and is required to continue his work even after disposal of the case. According to Justice R.V. Raveendran, “Each Probation Officer should be a social worker, disciplinarian, friend, guide, nurse, teacher and mentor rolled into one.” Justice

⁷ Hansaria, Vijay & Jose, P.I. (2012), *Juvenile Justice System*, Universal Law Publishing Co., at P.28.

⁸ Patel, Bharat R. (2015), *Juvenile Delinquency*, Shree Niwas Publications, Jaipur, at P. 142.

⁹ Jones, A.E. (1945), *Juvenile Delinquency & Law*, Penlican/ Penguin Books, London, at P.23.

Bhagawati observed that unless Probation Officers remain motivated and observant, they will not be able to handle juvenile related situations.¹⁰

A Probation Officer is appointed by the State Government or recognized as such by the State Government (P.O. Act, Section 13). The Probation Officers Act, 1958 enumerates the duties of Probation Officer. A Probation Officer shall perform his duties subject to such conditions and restrictions as may be prescribed by the rules made under this Act. His duties are as follows:

- a. He shall inquire into the circumstances or home surroundings of any person accused of an offence. He shall submit his inquiry report to the court.
- b. He shall supervise probationers and other persons placed under his supervision.
- c. He shall advise and assist offenders in payment of compensation or costs ordered by the court.
- d. He shall advise and assist in such cases and in such manner as may be prescribed persons who have been released under section 4 of this Act; and
- e. He shall perform such other duties as may be prescribed by rules made under this Act.

The role of a Probation Officer is twofold within the juvenile justice system

- (i). to assist the Juvenile Justice Board (JJB) whilst making decisions or passing orders with regards to the juvenile and
- (ii). to be a friend to the juvenile and to assist and advise him during the probation period.

Probation Officers provide the JJB with information about the child and also supervise the juveniles whom the JJB has returned to the community. The Probation Officer's report is sought by the JJB whilst entertaining a bail application and also at the

¹⁰ Sheela Barse v. Secretary, Children Aid society, AIR 1987 SC 656.

time of final disposal of the case. The main purpose of the report is to examine the juvenile's background and also identify the reasons for commission of the offence.¹¹

The Probation Officer plays dual role, one as an investigation and the other as a supervisor. Secondly, he has a vital role in reformation, rehabilitation and reintegration of the children who come within the purview of the JJ Act.¹² Thus the two significant roles of a Probation Officer under the juvenile justice system can be summarized thus:¹³

Investigation, that is obtaining information regarding the antecedents and family background of the juvenile and other material circumstances to assist the Board in making the inquiry, preparing a social investigation report on the juvenile to be taken into consideration by the Board while passing a final order in respect of the juvenile, and preparing further report regarding the necessity, nature and period of after-care, when the juvenile is discharged from the Special Home.

Supervision, that is supervising a juvenile, either pending inquiry by the Board, or on a final order being passed by the Board on finding that the juvenile has committed an offence, or after the juvenile is discharged from the Special Home.

Probation Officers play a crucial role in the reformation, rehabilitation and social reintegration of the juveniles in conflict with law. After police, next juveniles face to the Probation Officers. In interaction with the juvenile, it comes to the knowledge whether juvenile is the addicted juvenile or not. Probation Officers can prevent them from reverting to a life of crime and debasement and convert them into law abiding responsible citizens of the society.

¹¹ Hansaria, Vijay & Jose, P.I. (2012), *Juvenile Justice System*, Universal Law Publishing Co., New Delhi, at PP.28-30.

¹² Patel, Bharat R. (2015), *Juvenile Delinquency (Causes and Control)*, Shree Niwas Publications, Jaipur, at P.80.

¹³ Supra note 11, at P.31.

Effective achievement of the objects of the Act is therefore possible only when there is adequate number of committed and professionally trained Probation Officers and Child Welfare Officers sensitized to the problems and needs of victimized and abused juveniles. According to A.J Reiss, most of the delinquent cases in Chicago Projects failed to improve in the beginning but showed improvement in behaviour when kept under the supervision of Probationary Officers.¹⁴

6.2.2. Law Enforcement Officers

The Section 107 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is analogous to section 63 of the Juvenile Justice (Care and Protection of Children) Act, 2000 with cosmetic changes here and there. This section speaks of creation of special Juvenile police unit in every police station under a police officer with aptitude and appropriate training and orientation who may be designated as the “Juvenile or the Child Welfare Officer” who will handle the child in co-ordination with the Police. The main aim is that the treatment of the child should be upgraded and the whole situation should appear in practice that the principle of “*parens patriae*” is exclusively followed. The words “in co-ordination with police” stipulated in sub-section (2) do indicate that the designated officer may be a police officer in body but in mind and soul he is only a welfare officer.

The role of police is considered very important in apprehending and protecting juvenile from being delinquents. Police is a separate agency which has to perform its duties under the guidelines of Juvenile Board/Court. Therefore to understand the behavior of police towards juveniles, it is necessary for them to be aware of all the facts of the Juvenile Court. Besides maintaining law and order police have many other informal functions like, when police encounter with these juveniles on streets and in

¹⁴ Kaldate, S.V. (1982), *Society, Delinquent and Juvenile Court*, Ajanta Publications, Delhi, at P.33.

deserted condition then police play an important role and protect them from injury/harm. In India, police play a significant role for the protection of these children from injury/harm and for maintaining the law and order. It is essential that these children should be treated with sympathetic care. The manner in which police treat these juvenile determines the child's future behavior, in future whether they move to a right path or chose a wrong path.

6.2.3. Observation Home

Section 47 of the Juvenile Justice (Care and protection of children) Act, 2015 is analogous to Section 8 of the Act, 2000 with the exception that the word "Child in conflict with law" in place of "Juvenile in conflict with law". State Governments have been empowered to establish and maintain either, by itself or under an agreement with voluntary organizations, Observation Homes in every district or a group of districts, as may be required for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under this Act. When any juvenile is brought before the Board and the Board does not find a case fit for bail under the section 12 of the Act, the Board can make order for sending the juvenile to Observation Home during the pendency of proceeding.

The new Act provides that every child alleged to be in conflict with law who is not placed under the charge of parent or guardian and is sent to an Observation Home shall be segregated according to the child's age and gender, after giving due consideration to physical and mental status of the child and degree of the offence committed.

6.2.4. Special Home

Section 48 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is analogous to Section 9 of the Act, 2000 with the exception that the word "Child in

conflict with law” in place of “Juvenile in Conflict with law”. Section 9 of the JJ Act empowers the State Government that it may establish and maintain either by itself or under an agreement with voluntary organizations, Special Homes in every district or a group of districts, as may be required for reception and rehabilitation of juvenile in conflict with law under this Act.

Where after completion of inquiry the Board does not find the case fit to release juvenile after admonition, counselling or on probation or order for community services, the Board can send the juvenile in Special Home. The Special Home is the home where he can be trained in vocational courses so that he can be rehabilitated and socially reintegrated in the society. Section 15(2) of the Act says that the Board shall obtain the social investigation report on juvenile either through a Probation Officer or a recognized voluntary organization or otherwise, and shall take into consideration the findings of such report before passing an order.

6.2.5. Place of Safety

This is a new provision which is introduced under the Act, 2015. The State Government is empowered to set up at least one place of safety in a State which shall be registered under section 41 of the Act, 2015 to place a person above the age of 18 years or a child in conflict with law who is between the age of sixteen to eighteen years and is accused of or convicted for committing a heinous offence. Every place of safety shall have separate arrangement and facilities for stay of such children and persons during the process of inquiry of the children or person accused of committing an offence.

6.2.6. Children Home

Section 50 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is analogous to section 34 of Act, 2000. According to section 34 of the Act, State Governments have been empowered to establish and maintain either by themselves or in

association with the voluntary organizations, Children's Homes in every district or a group of districts for the reception of child in need of care and protection during the pendency of inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.

In **Sheela Barse v. The Secretary, Children Aid Society**,¹⁵ the Supreme Court said that children are the citizens of the future era. On the proper bringing up of children and giving them the proper training to turn out to be good citizen depends the future of the country. The Children Act has made elaborate provisions to cover the International Charters relating to the rights of the children. Then the Supreme Court gave a clear and loud call that gerontocracy in silence manner indicated that like a young plant, a child takes roots in the environment where it is placed. However, good the breed is if the sapling is placed on a wrong setting or on unwarranted place, there would not be the desired growth.

The Supreme Court while dealing with a petition under Article 32 pertaining to the fallen women and their progeny has categorically stated that the children have the rights to equality of opportunity, dignity, care, protection and rehabilitation by the society.¹⁶

Table No. 20

Total number, name and place Government run children Homes under ICPS

LIST OF GOVERNMENT RUN CHILDREN HOMES UNDER ICPS (The Integrated Child Protection Scheme)			
	Name of the Government run Children Homes	Address	District
1.	Children Home for Boys	Fatasil Ambari, Guwahati- 25	Kamrup (Metro)
2.	Jalukbari Children Home for Girls	Sundarbari, Jalukbari, Ghy- 14	Kamrup (Metro)
3.	Lakhimpur Children Home for Boys	Chinatolia, North Lakhimpur	Lakhimpur
4.	Nagaon Children Home for Girls	Panigaon Chariali, P.O.-Itachali, Nagaon- 782001	Nagaon

Source: Observation Home, Boko

¹⁵ Sheela Barse v. The Secretary, Children Aid Society, AIR 1987 SC 656.

¹⁶ Gaurav Jain v. Union of India, AIR 1997 SC 3021.

6.2.7. Child Welfare Committee

Section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is analogous to section 29 of Act, 2000. The Child Welfare Committee (CWC) is an autonomous body declared as the competent authority to deal with CNCP (Child in Need of Care and Protection). It is mandatory to form a CWC in every district as per Section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Each State Government by official gazette notification should constitute a CWC for every district. The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman and another, an expert on matters concerning children.¹⁷ The qualifications of the Chairperson and the members, and the tenure for which they may be appointed is concerned, it shall be such as may be prescribed.¹⁸ The Chairperson and members of the Committee shall be provided with training and orientation in child psychology, child welfare, child rights, national and international standards for juvenile justice, by the State Government.

Regarding termination of any member of the Committee, the Act says that, after holding inquiry, the State Government may terminate any member, if-

- i. he has been found guilty of misuse of power vested under this Act;
- ii. he has been convicted of an offence involving moral turpitude .
- iii. he fails to attend the proceedings of the Committee for consecutive three months without any valid reason or he fails to attend less than three fourth of the sittings in a year.¹⁹

¹⁷ Section 29 (2) of the Juvenile Justice (Care and Protection of Children) Act, 2015.

¹⁸ Section 29 (3) of the Juvenile Justice (Care and Protection of Children) Act, 2015.

¹⁹ Section 29 (4) of the Juvenile Justice (Care and Protection of Children) Act, 2015

As Section 29(5) of the Act says the Committee shall function as a Bench of Magistrates and shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the First Class.

6.2.7.1. Functions and responsibilities of Child Welfare Committees

It is a new provision incorporated in the Act, 2015. It has seventeen functions and responsibilities excluding residue function and responsibility which may be prescribed.

The functions and responsibilities of the Committee shall include.²⁰

- (i) taking cognizance of and receiving the children produced before it.
- (ii) conducting inquiry on all issues relating to and affecting the safety and wellbeing of the children under this Act.
- (iii) directing the Child Welfare Officers (CWO) or Probation Officers(PO) or District Child Protection Unit (DCPU) or Non-Governmental Organizations to conduct social investigation and submit a report before the Committee.
- (iv) conducting inquiry for declaring fit persons for care of children in need of care and protection.
- (v) directing placement of a child in foster care.
- (vi) ensuring care, protection, appropriate rehabilitation or restoration of children in need of care and protection based on the child's individual care plan and passing necessary directions to parents or guardians or fit persons or children's homes or fit facility in this regard.
- (vii) selecting registered institution for placement of each child requiring institutional support, based on the child's age, gender, disability and needs and keeping in mind the available capacity of the institution.

²⁰ Section 30 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

- (viii) conducting at least two inspection visits per month of residential facilities for children in need of care and protection and recommending action for improvement in quality of services to the District Child Protection Unit and the State Government.
- (ix) certifying the execution of the surrender deed by the parents and ensuring that they are given time to reconsider their decision as well as making all efforts to keep the family together.
- (x) ensuring that all efforts are made for restoration of abandoned or lost children to their families following due process, as may be prescribed.
- (xi) declaration of orphan, abandoned and surrendered child as legally free for adoption after due inquiry.
- (xii) taking suo-moto cognizance of cases and reaching out to children in need of care and protection, who are not produced before the Committee, provided that such decision is taken by at least three members.
- (xiii) taking action for rehabilitation of sexually abused children who are reported as children in need of care and protection to the Committee by special juvenile police unit or local police.
- (xiv) dealing with cases referred by the Board under sub-section (2) of section 17.
- (xv) co-ordinate with the police, labour department and other agencies involved in the care and protection of children with support of the District Child Protection Unit or the State Government.
- (xvi) in case of a complaint of abuse of a child in any child care institution, the Committee shall conduct an inquiry and give directions to the police or the District Child Protection Unit or Labour Department or Child line Services, as the case may be.
- (xvii) accessing appropriate legal services for children.
- (xviii) such other functions and responsibilities, as may be prescribed.

6.2.7.2. Procedure in relation to Committee

The Committee shall meet at such times and shall observe such rules of procedure in regard to the transaction of business of its meetings, as may be prescribed. In the event of any difference of opinion among the members of the Committee at the time of any interim decision the opinion of the majority shall prevail but where there is no such majority the opinion of the chairperson shall prevail.

A child in need of care and protection may be produced before an individual members for being place in safe custody or otherwise when the Committee is not in session.²¹

6.2.7.3. Powers of Committee

The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.²² The Act of 2000 further says that where a Committee has been constituted for any area, such Committee shall notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.²³

6.2.7.4. Production of Child before the Committee

Any child in need of care and protection, according to Section 32 (1) may be Produced before the Committee by one of the following persons:

- i. Any police officer or special juvenile police unit or a designated police officer;
- ii. Any public servant;

²¹ Section 28 of the Juvenile Justice (Care and Protection of children) Act, 2015.

²² Section 29 of the Juvenile Justice (Care and Protection of children) Act, 2015.

²³ Section 31 (2) of the Juvenile Justice (Care and Protection of children) Act, 2000.

- iii. Child-line, a registered voluntary organization or by such other voluntary organization or any agency as may be recognized by the State Government;
- iv. Any social worker or a public spirited citizen; or v. by the child himself.

Provided that the child shall be produced before the committee within a period of 24 hours, excluding the necessary time for journey. Before passing an order in respect of the children produced before the Magistrate, he shall confirm that the person or organization who received the child in need of care and protection has acted in accordance with the mandatory provisions and other relevant provisions of the Act and Rules and nothing has occurred to him affecting his rights.²⁴

6.2.8. House Father or House Mother

Section 53 of the Act, 2015 provides the duties of the House Mother or Father or Caregiver.

- (1) Every house father or mother or caregiver shall abide by the directions of the Person-in-charge.
- (2) The general duties, functions and responsibilities of a house father, house mother and caregiver shall be as follows:
 - (i) handle every child in the Child Care Institution with love and affection;
 - (ii) take proper care of the child and ensure his welfare;
 - (iii) provide each child upon his reception with all the necessary supplies like clothing, toiletries etc.;
 - (iv) replenish the supplies as per scale and need of the child;
 - (v) maintain discipline among the children;
 - (vi) ensure that the children maintain their personal cleanliness and hygiene;
 - (vii) look after maintenance, sanitation and maintain hygienic surroundings;

²⁴ Jose Maveli Director v. State of Kerala and another, 2007 Cri LJ2709(Kerala)

- (viii) implement the daily routine of every child in an effective manner and ensure the participation of the children;
- (ix) look after safety and security arrangements in the Child Care Institution;
- (x) escort the children whenever they go out of the Child Care Institution for purposes other than production before the Board or the Committee or the Children's Court;
- (xi) report to the Person-in-charge and to the Child Welfare Officer about the child assigned to the Child Welfare Officer;
- (xii) maintain the registers, relevant to their duties; and
- (xiii) any other duty as may be assigned by the Person-in-charge of the child care institution.

At present, the name of the House father of Boko, Observation Home is Mr. Diganta Borah. He has given a lot of information about the delinquent juveniles. He informed that family background, poverty, lack of education, peer group influence are the main causes of juveniles becoming addicted and later on becoming juvenile delinquents. Sometimes the juvenile also try to escape from juvenile home. He also informed about the "Mother and Nani Gangs". Sometimes child come to the contact with the gang mother and she initially takes care of the child and inform them that their father died and only mother and nani is alive. After 7 or 8 years, they are being engaged initially in petty offences and later on they become criminal. He also informed that in some cases parents do not come to take the juveniles from Observation Home.

The researcher has come to know that the Observation Home is running without permanent staff. House father post is also not permanent and does not even have a full-time Superintendent. There are no doctors or nurses in the Observation Home. The inmates are to be taken to a primary health centre located 12 kms from the Home if they are ill.

6.2.9. Role of Judiciary

The Supreme Court also played an active role in laying down guidelines for the proper treatment of juveniles in conflict with the law. In the case of **Hiralal Mallick v. State of Bihar**,²⁵ the Supreme Court observed that our nation can never really be decriminalized until the crime of punishment of young deviants is purged legislatively and judicially.

In **Munna v. State of Uttar Pradesh**,²⁶ a writ petition was filed based on a newspaper report which exposed the plight of juvenile under trial prisoners. It came to light that even though there was Children Home in Kanpur several juvenile under trial prisoners were being lodged with the adults in the Kanpur Central Jail and were being sexually exploited by adult prisoners. The Supreme Court issued notice to the State Government and observed that juvenile delinquency is, by and large, a product of social and economic maladjustment. Even if, it is found that juveniles have committed any offence that cannot be allowed to be mal-treated.

In the landmark case of **Sheela Barse v. Union of India**,²⁷ journalist Sheela Barse filed a writ petition under Article 32 of the Constitution for the release of children below the age of 16 years who were detained in jails in different States in India. She requested that the State Governments be ordered to produce complete information relating to total number of children in jails, Juvenile Courts, Homes and Schools. It is an elementary requirement of any civilized society and it had been so provided in various statute concerning children that children should not be confined to jail because incarceration in jail has a dehumanizing effect and it is harmful to the growth and development of children. The judgment of the Supreme Court in Sheela Barse prompted the enactment of the Juvenile Justice Act, 1986. However, the 1986 Act was

²⁵ Hiralal Mallick v. State of Bihar, AIR 1977 SC 2236.

²⁶ Munna v. State of Uttar Pradesh, (1981) 1 SCC 545.

²⁷ Sheela Barse v. Union of India, AIR 1986 SC 1773.

unable to bring about any improvements in the treatment of juveniles and issues like the treatment of juveniles in Special Homes caused a lot of concern in human rights circles.²⁸

The Supreme Court in **Ashwini kumar Saxena v. State of Madhya Pradesh**,²⁹ held that for determining the juvenility of the delinquent the Juvenile Justice Board has to conduct an inquiry as per the procedure set in the JJ Act and the Rules made there under, and not as per the provisions of the Code of Criminal Procedure, 1973. Ossification test is to be conducted only if certificates mentioned in Rule 12 of the JJ Rules, 2007 i.e. Birth Certificate or the School Register date of birth certificate is not available. Section 9 of JJ Act, 2015 obliges the court only to make an inquiry and not an investigation or a trial under Cr.P.C and the age determination inquiry has to be completed within 30 days from the date of making application.

In the instant case, the Court had examined the question of juvenility of the appellant as if it was conducting a criminal trial or an inquiry under Cr.P.C. The Supreme Court held that the procedure adopted was not as per JJ Act and therefore, had to be quashed. The date of birth recorded in school admission register was relevant piece of evidence which showed that the appellant was juvenile on the date on which offence was committed and therefore, the court below was not justified in rejecting the same.³⁰

The procedure to be followed in a judicial proceeding against a child or juvenile offender as laid down in the Children Act, 1960 (repealed by the Juvenile Justice Act, 1986) and the Code of Criminal Procedure was challenged in **Rohtas v. State of Haryana**³¹ wherein the question involved was whether the child facing trial for an

²⁸ Narrain, Arvind, *The Juvenile Justice Act, 2002 – A Critique*, Alternative Law Forum, at P.2

²⁹ Ashwini kumar Saxena v. State of Madhya Pradesh, (2012) 9SCC 750.

³⁰ Jodhbir Singh v. State of Punjab, AIR 2013 SC 1.

³¹ Rohtas v. State of Haryana, AIR 1979 SC 1839.

offence punishable with death or imprisonment for life could be tried by the Juvenile Court or by Sessions Court. The Supreme Court finally ruled that the child shall be tried under the provisions of Haryana Children Act, 1974 though the offence is punishable with death or imprisonment for life. This view was further fortified by a subsequent decision of the Supreme Court in **Sheela Barse v. Union of India**³². In that case the Supreme Court reiterated that despite statutory provisions to the effect that children should not be kept in jail, a large number of children were still lodged in jails. The Supreme Court therefore, issued a direction that in case of offences punishable with less than seven years, investigation must be completed within a period of three months failing which the case must be closed. The maximum time limit for completion of trial in such cases was fixed at six months. The Supreme Court further ruled that there is no controversy or doubt that the juveniles must be kept in Remand Homes or Observation Homes and not in jail in pending trial or enquiry irrespective of the fact that they have attained the age of 16 years during the trial. But the question arises whether they should be allowed to remain in the company of under sixteen groups of juveniles after they cease to be juvenile? "If the company of the criminal kept in ordinary jail can have deleterious effect on their mental hygiene, it cannot be denied that their continued association with persons who are under-age i.e. below 16 years, living in the Observation Home may not be in the interest of the younger ones." Therefore, the State Governments should make arrangement so that such juveniles who have crossed the age of 16 are not only kept away from the evil influence of ordinary criminals but at the same time are also kept at a distance from under sixteen groups of persons.

Though the Supreme Court refused to allow the **Delhi Gang Rape** Juvenile offender to be treated as an adult and observed that when young offender commits truly heinous crimes, a longer period of sustained counselling and rehabilitation ought to be

³² Sheela Barse v. Union of India, AIR 1986 SC 1773.

an essential part of the juvenile justice process even after the maximum period of remand. But is it not a travesty of justice, where a system that provides privacy and financial aid to heinous criminals instead of keeping them behind the bars-protecting the right of the juvenile rapist but not the right of the raped woman. Perhaps the most lamenting part of **Nirbhaya case**,³³ was that those who were above 18 years were awarded death penalty but the 17 years rapist murderer got just three years in a remand home that too deducting the months he had already spent in custody.

6.2.10. Role of Gauhati Medical College and Hospital (GMCH), a Government Institution

The researcher has also visited the Gauhati Medical College and Hospital, Bhangagarh, Guwahati to know whether there is facility for treatment or de-addiction of addicted and alcoholic person. Here the researcher has come to know that the Department of Psychiatry, GMCH has a division which treats the addicted or alcoholic person. The Department of Psychiatry is an important department in Gauhati Medical College and Hospital, which deals mainly with psychiatric patients and the patients with drug abuse or addiction, who come for de-addiction. Sometimes the addicted patients also come with some other psychiatric disorders manifested as a result of alcohol or other addiction. The ward of this department is situated in the main building of GMCH in the first floor. The Psychiatry ward is divided into male and female wards. The female ward has three rooms which possess 16 (sixteen) beds. Male ward also have three rooms with 24 (twenty four) beds. Apart from male and female wards, there is a Drugs De-addiction Centre (DDC) ward, where alcoholics and drug addicted patients are kept for detoxification and de-addiction. In the DDC room there are 8 (eight) beds for the patients and when number of such patients for de-addiction increases beyond

³³ Delhi Gang Rape Case, 2012.

eight then they are kept in the male ward. The additional number of person is increasing day by day due to the easy availability of drugs as well as the modern life style. The psychiatry department informed the researcher that day by day the number of addicted person coming for treatment to the department is increasing. The patients who come for de-addiction treatment to the GMCH are of different age group which includes juveniles also. Here the treatment of alcoholism and drug addiction has mainly two broad divisions in GMCH. These are (i) Detoxification, (ii) De-addiction.

Patients admitted for alcohol de-addiction are kept usually 21 (twenty one) days at GMCH. First 7 to 10 days are regarded as detoxification period. In this phase a patient is detoxified with the help of some detoxifying agents like benzodiazepines, as for example, chlorthalidone and diazepam. Detoxification is actually the treatment of alcohol or drugs withdrawal symptoms, i.e. symptoms produced by the removal of the toxin. The best way to stop alcohol or drugs is to stop it suddenly. The usual duration of uncomplicated withdrawal syndrome is 7 to 14 days. The aim of detoxification is the symptomatic management of the emergent withdrawal symptoms. The drugs of choice are benzodiazepines. These are given both orally and parenterally, depending on the condition of the patient. These drugs are used in a standardized protocol with the dosage steadily decreasing every day before being stopped, usually on the tenth day.

The de-addiction process also includes some of the non-pharmacological processes like different kinds of psychotherapies and therapies. Those include group therapy, individual counselling, yoga therapy, motivation enhancement therapy and relaxation therapy. Presently Alcoholic Anonymous (AA) meeting has also been initiated by the department with the help of Alcoholic Anonymous members of greater Guwahati. In simple terms the non-pharmacological treatment for the alcoholics and other drug addicted patients are well divided in a week. There is a time table pasted on two walls of the DDC room, facing each other, for convenience of the patients as well

as their attendants. The following table will give an idea about the non-pharmacological treatment plan for the alcoholics and drug addicts of GMCH.

Table No.21

Non-pharmacological weekly activities of alcoholics admitted in the GMCH

S.L.No	Week Days	Activities
1.	Monday	Group Therapy
2.	Tuesday	Yoga Therapy
3.	Wednesday	Alcoholic Anonymous Meeting
4.	Thursday	Yoga Therapy
5.	Friday	No activity
6.	Saturday	Yoga Therapy
7.	Sunday	No activity

Source: GMCH

Different kind of non-pharmacological treatments are well used in GMCH to get the alcoholic and drug patients fully recovered. It is always up to the compliance of the patients, whether he or she follows all steps of the treatment or not. Generally, the patients of alcoholism or any other drug addiction are kept in the hospital for 21 days. However, sometimes this rule has to be changed according to the patient's physical and mental health.

Therefore, it may be stated that GMCH is the only Government run institution in the Kamrup (M) district which has the facility for de-addiction. But this facility is not sufficient to meet the need of ever increasing problem of alcoholism and drug addiction among juvenile in the district of Kamrup (M).

From the above discussion, it is cleared that NGOs and Governmental Organization play important role for the prevention and treatment of delinquent juvenile. The NGOs will also have to play important roles to ensure effective assertion of the rights of the child.