

Housing as an Inalienable Human Right: Contextualizing the Case of Care Leavers in India

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Abstract

Adequate housing or shelter has received a huge emphasis as a human right, as analysed from the various International Humanitarian Norms and the domestic legislations, as well. It has been considered as a fundamental element to foster the positive development. In the neo-liberal world order, the socio-economic disparity has resulted in a large number of children and youth into homelessness, which makes them vulnerable to a number of life threatening risks. To secure and safeguard their rights, alternative care emerged as a response. But, the alternative care is not been considered sustainable. As the Care Leavers do not immediately find the suitable place for shelter, livelihood gets them caught in limbo, which demands the need to have a suitable *After-Care framework* for Care Leavers that would protect and safeguard their lives. With this information in background, this paper is an attempt to bring the systematic assessment of the housing for Care Leavers in India. Building evidence from the existing research findings and taking International Humanitarian Norms as a guiding framework, this paper advocates for the housing rights for the Care Leavers and will introduce a framework, which could be utilized by relevant stakeholders to provide a holistic intervention. This study utilizes the descriptive research design.

Keywords: Care Leavers; Housing; After-Care; Human Rights

Introduction

The issue of homelessness is emerging as a global crisis, as depicted from its increasing statistics. National reports estimate that almost 150 million people, which comprises of about 2 percent of the world population is homeless. However, around 1.6 billion people, comprising more than 20 percent of world population lacks satisfactory housing.¹ The situation is more critical in global south. There are no authentic statistics for the homeless in reference to the developing world, but the estimates by the UN and the country wise statistics suggest that the proportion has increased from the last two decades. Almost 1.1 billion people are projected to be homeless in developing countries.² As far as India is concerned, the estimates show more than 1.8 million homeless people, with 52 percent based in urban areas. About 73 million families lack access to

¹ Retrieved from <https://yaleglobal.yale.edu/content/cities-grow-so-do-numbers-homeless>

² Speak, S. (n.d). The state of homelessness in developing countries. Paper presented by Speak at United Nations office at Nairobi, retrieved from https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/SPEAK_Suzanne_Paper.pdf

adequate housing in India (UN Habitat, 2019; IGH 2018).³The situation is even grim as far as children are considered in India. Singh and Purohit (2006, as cited in Save the Children, 2015) refers that there are 18 million street children in India. However, the Union Ministry for women and child development acknowledges that there is no reliable statistics available on the same. Living in such a situation poses a life threatening risks to the children which ultimately impedes their development. These children face problems related to their education, housing, physical and mental health, social life etc (see Zima, Wells & Freeman, 1994; Vostanis, Grattan & Cumella, 1998; Biggar, 2001; UNICEF, 2011; Save the Children, 2015; Rewathy, 2018; Alowaimar, 2018; Modi, Prasad & Mishra, 2018).

Recognizing the issues and problems faced by the homeless population, efforts although minimal have been put forward by the government and non-governmental sector to alleviate the problems of this disadvantaged and vulnerable section of society.

Operationalization and Significance of the Study

Huge emphasis has been paid on the security, protection and care of the children, which could be analysed through the International Humanitarian Norms and the domestic legislations. More recently, Human Rights Council (2019) pointed out that while the recognition of Human Rights have received a prime importance, which could be seen in Sustainable Development Goals, the Right to Housing has largely remained undermined. A survey conducted in 45 countries by the World Justice Project reveals that the most common issue identified in which access to justice was overwhelmingly needed was related to housing (Human Rights Council, 2019). Regarding the statistics on homelessness, it has been revealed that rough sleepers and people living in accommodation for the homeless and in emergency temporary accommodation contribute significant proportion in the statistics.⁴ The latter category include people who spend their transition period in Care institutions such as Homeless Hostels, temporary accommodation, Transitional Supported Accommodation, Women's Shelter or refuge accommodation etc. This points towards that the fact that populations who are temporarily provided facilities, are left in limbo once they leave the Care facilities. To say, the Care Leavers do not find any sustainable mechanism of protection after leaving the Care facilities. Building a rationale on this argument this research attempts to bring the systematic assessment of the housing for Care Leavers in India. If we try to locate the intervention both by Governmental and Non-Governmental agencies regarding the theme undertaken for the study, it is seen to be minimal. Keeping this in view, this study will advocate for housing as a human right for the Care Leavers by giving a holistic framework of *After-Care*.

Guiding Framework

Housing as an inalienable right draws its injunctions from various International humanitarian laws and domestic legislations, which have been highlighted below.

³ Retrieved from <https://homelessworldcup.org/homelessness-statistics/#asia>

⁴ Retrieved from <https://www.oecd.org/els/family/HC3-1-Homeless-population.pdf>

“Universal Declaration of Human Rights”

Article 25(1) -Everyone has the “right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

“International Covenant on Economic, Social and Cultural Rights”

Article 11- Recognizes that “everyone has a right to adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”.

Various other International human rights treaties that recognize the right of adequate housing include:

- “*The 1951 Convention Relating to the Status of Refugees (Article 21)*”
- “*The International Labour Organization’s 1962 Convention No. 117 concerning Basic Aims and Standards of Social Policy (Article 5 (2))*”.
- “*The 1965 International Convention on the Elimination of All Forms of Racial Discrimination (Article 5 (e)(iii))*”.
- “*The 1966 International Covenant on Civil and Political Rights (Article 17)*”.
- “*The 1989 Convention on the Rights of the Child (Article 16 (1) and 27 (3))*”.
- “*The 2006 Convention on the Rights of Persons with Disabilities (Article 28)*”.

As far as Indian constitution is concerned, **Article 21** advocates for the adequate shelter or accommodation, which has been recognized in the landmark judgment of *Olga Tellis Vs Bombay Municipal Corporation*.⁵

Method

This study is qualitative and involves descriptive research design. This study is primarily based on secondary sources of data, which includes existing research reports and studies related to the theme. This study reviews the existing literature on the theme and establishes a gap. This gap is been reduced by providing a framework in context of Care Leavers in India, which has largely been missed by the researchers and the intervention organisations. This study will prove useful for the NGOs and GOs to intervene effectively to minimize the issue of housing and its possible consequences. The target group for this study is the Care Leavers.

Principles for Protection and Care

This section highlights the value system and the principles which act as a base for the framework of *After Care* for Care Leavers. The intervention should be made keeping such principles into consideration, because they are believed to be in the best interest of the children. These principles

⁵ Retrieved from <https://indiankanoon.org/doc/709776/>

have been recognized after reviewing the various child-centric policies and programmes. These principles focus on:

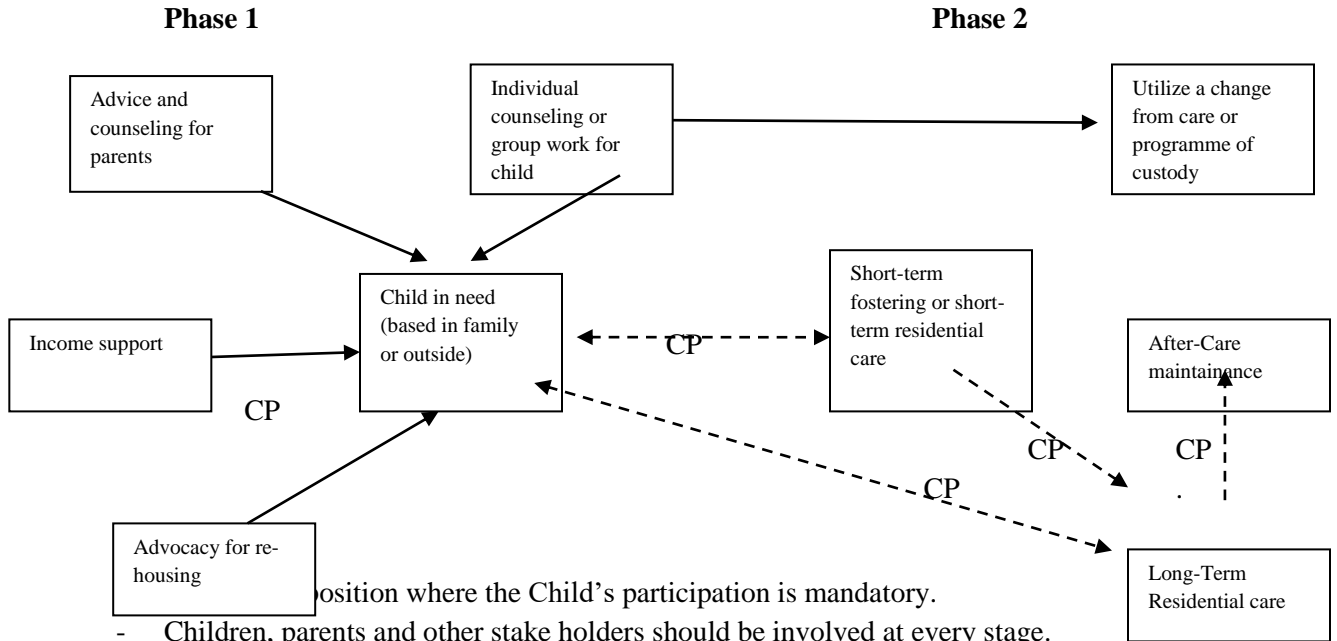
1. Strengthening the capacity of families so as to provide care and protection to children.
2. Strengthening and support the community-based responses.
3. Ensure availability and easy access to essential services.
4. Guarantee that government protects the (most) vulnerable children.
5. Institutionalization as a last resort.

Package for Care and Protection

There exists a consensus on this premise that protection of children and youth should be provided in the context of family or extended family and that residential care facility should always be the last resort. The idea of 'package' involves a range of responses at different levels, which could be combined to meet the needs of the beneficiary within the family environment. The emphasis is being given on 'prevention' which uses a variety of interventions sustaining the family and helping to lessen the risks of the child and youth requiring care outside of the family. However, the idea of 'package' does not only utilize the family environment. It involves a range of options for the target population, which for many reasons, cannot remain with the family or extended family. This implies the overlapping of family and substitute care depending upon the circumstances and the context. Based on this philosophy, a guiding framework has been given, which focuses on how the *After Care* should be planned for the Care Leavers. After Care intervention may not only focus on the strategies concerning when an individual leaving the care facility, but may involve a re-designing of rehabilitation plan, which could be achieved through a close coordination of working with various stake holders. The planning strategy is mentioned below:

1. The child's best interest must be superseding guide to all planning.
2. Planning should utilize the methodical evaluation of the child and familial situation, which may help in exploring a variety of doable options.
3. Planning must be beneficiary centered and unbiased.
4. Participation of the target group should be made at every stage, which would help in considering their wishes and feelings.
5. Governments should be encouraged to take decisive accountability for children at risk of harm or positioned in out-of-home care.
6. Wherever the children are not at risk, precedence should be given to family preservation and the mobilizing of suitable preventive resources.
7. Corporate Parenting duties placed on (local) housing authorities
8. Joint working arrangements between the housing authorities and children service authorities.
9. Prevention and relief of homelessness – which entrusts duty on specified public bodies to arrange a housing facility for the Care Leaver within a stipulated time frame.
10. Assessing whether or not a care leaver has a priority need for accommodation.
11. Finally, a suitable accommodation for Care Leavers.

The above strategic plan has been represented in a diagrammatic representation by the Save the Children as;



- Position where the Child’s participation is mandatory.
- Children, parents and other stake holders should be involved at every stage.
- Dashed lines show a change in Care measures.

Conclusion

This study provides a systematic assessment on the housing of Care Leavers in context of India. This study reveals that there is no sustainable response provided by the Government or Non-Governmental agencies in reference to the housing issue of Care Leavers. This study considers housing as a fundamental need of Care Leavers and provides a framework which emphasizes on re-designing the models of After Care. It reinforces the place of International humanitarian norms as a primary framework for After Care intervention. The intervention framework focuses that living in family environment serves in the best interest of a child and at the same time guides towards the possible options where such facility is not available. This study makes a significant contribution in the subject of After Care and will prove useful for the (action) researchers and the various stake holders working on the theme. It advocates that housing is a basic human right to the individual, which requires an equal recognition like other human rights.

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