

Non Implementation of Juvenile Justice System Ordinance 2000, in Balochistan: A Case Study of Gaddani Central Jail.

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Abstract:-

The juvenile Justice System Ordinance 2000, is meant to protect the rights of children in conflict with the law in Pakistan. The plight of the juvenile offenders defined by the JJSO 2000 has not changed. The law has not been implemented in Balochistan after the lapse of 18 years. The non implementation of the JJSO 2000, is virtually denial of the rights of children in conflict with the law. The research paper points out non implementation of JJSO 2000 and ordeal of Juvenile offenders during their jail terms and emphasizes the implementation of JJSO 2000 and JJSO Rules 2001 in Balochistan for bringing the children in conflict with the law, back in the society, with mental, moral and physical training to become responsible citizens and gain social position in society after coming out from confinement. The research design for this paper is used is Qualitative methodology. In this regard the Gaddani Jail is taken as case study because it is the second largest Central Jail of Balochistan. The convicts of Five (05) Districts of Balochistan are shifted to this jail for carrying out their sentences.

Introduction:-

Any deviation from an enforced law is an offence punishable and principle of retribution is more often applied. But with the passage of time, the world bodies have acknowledged the rights of child in conflict with the law. The retributive principle is discouraged in the matters of children in conflict with the law. Reformative and rehabilitation principle is applied on the matters of children in conflict with the law following UN convention of rights of child 1989.

Pakistan, being a signatory, in 1992, to the UN convention on right of child, adopted it and enforced Juvenile justice system ordinance 2000 for rehabilitation and reform of the children in conflict with the law among many other promises. The purpose of the law was to provide facilities for the reform and rehabilitation for the children in conflict with the law through the establishment of borstal institutions (Section 04 Juvenile Justice Rules 2001), introduction of probation system (Section 11 Juvenile Justice System Ordinance 2000) and separate juvenile courts (Section 04 Juvenile Courts) but all the facilities are lacking in Balochistan. The implementation of the said ordinance is still awaiting in Balochistan. The non implementation of the juvenile justice system ordinance has aggravated the situation for jail authorities and the juvenile offenders. The promise of making children useful assets of society by reforming them during their incarceration goes unfulfilled. The right of juvenile offenders can be protected only if the Juvenile Justice System Ordinance 2000 is implemented in letter and spirit.

Methodology:-

The qualitative methodology used in this research paper. The data collected from both the secondary and primary sources such as Article, publication, research paper and Acts and interviews. The interview of Superintendent central jail Gaddani is taken as primary source. Open-ended question put to the respondent and answers jot down. The reason for choosing of Gaddani jail as case study is that this jail is second largest central jail of Balochistan which was established in 2002 and houses convicts of around 25 courts from Makran Zone of Balochistan and the Lasbela District. The Gaddani jail has recently been transformed to bomb proof jail which is located in District Lasbela Tehsil Gaddani.

RESULTS/FINDINGS

For the purpose of collection of primary data Visited Central Jail, met respondent and Interviewed him with regard to the provision and establishment of borstal institutions / rehabilitation centers in Central jail Gaddani, District Lasbela.

1- GADANI CENTRAL JAIL: Gadani central jail is located in Lasbela district of Balochistan. Convicts of Mekran zone and district Lasbela are shifted to this jail for execution of their jail terms irrespective of their age. The Gadani central jail carries out the sentence awarded by court.

2- JUVENILE OFFENDERS: Children in conflict with law have been put into three main categories in respect of their age:

- (a) Children in conflict with the law under 14 (fourteen) as youthful offenders;
- (b) Children in conflict with the law from 14 to 18 as juvenile offenders and,
- (c) Children in conflict with the law under 20 as adolescent.

The children in conflict with the law falling in the first category are supposed to be released and shall not be detained rather be admitted in reform schools, and children in conflict with the law falling in the second category are to be kept in Borstal institutions for the purpose of rehabilitation and reform

3- NON-EXISTENCE OF INSTITUTIONS FOR JUVENILE OFFENDERS: The juvenile justice system and Convention on Child Rights provide that there shall be facilities for the children in conflict with law, but the facilities lack in jails and in the zone.

(3A) Borstal Institutions: There is no borstal institution in the District Lasbela and in Makran region. The convicted offenders from the Makran region and District Lasbela courts are shifted to Central Jail Gaddani irrespective of their age and nature of offence. The central jail Gaddani executes the punishments awarded by the court concerned. The inmates of District Gawadar are also shifted in central jail Gaddani for execution of their sentences. Though it is imperative under law that there shall be borstal institutions for keeping the child in conflict with law for the purpose of reform and mental, moral and physical training but no such institution existed in Balochistan

(3B) Reforms schools and Rehabilitations Centers In today' s world the tendency to put the child in incarceration has changed and the notion of reform and rehabilitation is rather acknowledged. The establishment of reform schools and rehabilitation is emphasized so that the child in conflict with the law are reformed and rehabilitated as they are different from the hardened and professional criminals. But, the right of juvenile

offenders to reforms and rehabilitation are not provided despite the fact that juvenile justice system guarantees them.

4- PLIGHT OF JUVENILE OFFENDERS: The child in conflict with law face many agonies, ranging from social, moral, mental agonies and becoming re-offenders

(4A) Loss of social positions: It is un-denying fact that everyone who has gone against the law and sentenced loses his position in society not only for the reason that he/she has been convicted for an offence but also for the reason that he has been kept aloof from society in his jail terms and could not contribute as responsible citizen, therefore is distanced by the members of society from major decisions.

(4b) Exposure to Public: The children in conflict with the law are exposed to the public due to non availability of the facilities promised for their rehabilitation and reform. The identity of the under trial juvenile offenders is also compromised as they are transported to the courts in the common prison van meant for regular prisoners.

(4c) Recidivism: The children in conflict with law face social problem and feel that they are not acknowledged by society because of their lack of moral, mental and physical training. Thus, facing the difficulty they opt for the second time offence even though the first was not committed deliberately.

DISCUSSION:-

The criminal justice system of Pakistan provides that anyone who goes in conflict with the law shall be arrested detained prosecuted and convicted. In Pakistan penal code is the substantiated law which defines offence and provides punishments. However, the special law called juvenile justice system targets the children in conflict with the law and whose age is up to 18 years. Section (2 (b) JJSO 2000) Juvenile Justice System Ordinance 2000 provides for establishment of borstal institution (2 (a) JJSO 2000). The Juvenile Justice Rule 2001 provides for establishments of borstal institution in every province for providing education and psychological, physical and moral training of the juvenile offenders within the borstal institution (part II institutional treatment section 4 JJR 2001).

The province of Balochistan has not seen the JJSO 2000 implemented. The children in conflict with the law are destined to remain in regular jail and travel in the same prisoner van meant for adult offenders. The sense of protection in respect of identity is not guaranteed of juvenile offenders and they are exposed in public shame (Kate Fits Gibbon and Wendy Obrien, October 20, 2016). The identity of children shall be kept in secret. (CRIN 29th January, 2013). The juvenile offender's right to have their privacy be ensured (Kate Fits Gibbon and Wendy Obrien, October 20, 2016). The juvenile offender rights can be protected when the JJSO 2000 is implemented in true spirit but the JJSO 2000 is not implemented yet. (Qadeer Ahmed, February 23, 2017). Children in conflict with the law are found to be in miserable condition in the presence and having no access to their councils due to financial constraints. (Mishi Faqruee, October 26, 2016).

Youth are usually subject to outdated retributive principle that includes isolation, sexual and physical abuse which breaks the youth away from educational institutions, religious communities, families where they could find support for their better future and to assume the role of responsible citizens. They are emotionally and sentimentally traumatized with the application of retributive principle. They are kept away from getting education and living a peaceful life by assuming responsibilities of the community. (Marten R. Gardner, 2016).

The children in conflict with the law are at the stage of mental development and their actions are not usually pre-misdated. They need to be reformed having no separate institutions the children in conflict with law learn from the adult “We learn everything from adults. From people who make bombs, we learn to make bombs. And that is what we learn when you send us to jail, we will become like them”. (Arlene Monoharam, Swagata Raha & Shuriti Ramakrishnan, April 24, 2015). The Shutiti Ramakrishna and others narrated the story of a young women and quoted her by saying “Please do not kill our spirit and hopes by sending us to jail. Help us, guide us, advise us, support us and show us the right path – do not condemn us to life in jail”.

The objective of any incarceration center or rehabilitation facility is to put the youthful offenders to pass through a process which endows them with awareness, self respect, education and provides them with energy to face the challenges of life in world outside of prison (Madiha Shah Modi, 2014). The purpose of juvenile justice system ordinance 2000 is to protect the rights of children in conflict with the law and bring him back from the abysmal of prisons to the free society by providing him facilities in shape of borstal institutions. However, the facilities do not exist on ground. The rehabilitation process shall pull them by converting them into valuable acids or members of the society. Ironically the rehabilitation process facilities in Pakistan are lacking. (Madiha Shah Modi, 2014). Children in conflict with the law required to be treated separately and differently from adult prisoners because they are “reformatory stage of development” . (Chiara Sergado January, 2016) “The main goal of juvenile justice system is rehabilitation rather than punishments” (SPARC). The Balochistan is the only province which does not have any juvenile detention facility to put the juvenile for the purpose of rehabilitation and reform in their mental, physical and moral aspects. “There is no juvenile detention facility in Balochistan” (Dawn, October, 2016), (Daily Times, October, 2017). Juvenile Justice System Ordinance has not been implemented in Pakistan in letter and spirit no specialized facility enshrined in the ordinance has been established in Pakistan generally and in Balochistan particularly (SPARC, 2015) (Arshad Mehmood, October, 2015). The children in conflict with the law have been ignore they are exposed to the adult criminals no facility has been established in the jail to keep them away from the behavior prevailing in the adult criminals and regular prisons and no reformatory institutions have been established despite the fact that the law has been enacted in this respect and is in field. (Advocate Mehwish Jamal, March 2018).

Conclusion:-

The Juvenile Justice System Ordinance 2000 enacted for the protection of right of the children in conflict with the law. It provided that there will be Borstal institutions probation system and separate course for juveniles and secrecy of the identification of children in conflict with the law with a vision that the children in conflict with the law come to the out world fully equipped with knowledge and skill and trained morally, physically and mentally but the implementation of the law remains a dream to be come true in Balochistan. The children in conflict with the law will have to be associated with adult offenders, transported to the courts in the same prison van which carries the adult prisons to the regular courts. The convicted juvenile offenders are still destined to languish in a single room children ward of the regular prisons till the completion of their sentence.

The implementation of the juvenile justice system ordinance and establishment of reformatory and rehabilitation centers rather than punitive principle will make the children in conflict with the law in valuable assets of the society when they come out they will assume the responsibilities of the their families and continue

to struggle for good. The non provision of rehabilitation and reformatory facilities will spoil the children in conflict with the law.

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