

**VERTICAL INTERACTION PROGRAMME
ON JUVENILE JUSTICE:
CHILD AS OFFENDER, VICTIM AND
WITNESS**

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Theme Paper:
JUVENILES IN CONFLICT WITH LAW

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DELINQUENCY: AN OFFSHOOT OF NEGLECT

Analyses of various causative situations indicate that the factors for neglect and delinquency are mostly common. In most of the crimes, neglected children turn delinquent on account of various socio-economic and psychological reasons. Poverty, broken homes, urbanization leading to migration, break-down of social values and joint family system, excesses and abuses by parents or guardians, faulty educational system, the influence of media besides the specific reasons of slums and such other conditions explain the phenomenon of juvenile delinquency. The neglect of children by their parents, family, society and the nation, create detrimental affect on their growth and personality. Unhealthy living conditions and the given situations of abuse and exploitation of children, inevitably, result in delinquency. To that extent, the delinquency needs to be considered to be the direct offshoot of neglect. Most of the factors causing delinquency are in plenty in the Indian context and any attempt to prevent and control them has to be related to the overall situation and the larger issues confronting our country and society.

DIMENSIONS OF THE PROBLEM

According to 1991 census, there were 297 million children in the age group of 10 to 14 years, of whom 203 million were in the age group of 5 to 14 years, coinciding with the school going age. The Fifth Education Survey of India reported about the same time about 112 million children enrolled in the formal school system, in the age group of 5 to 14 years and 7 million in the non-formal system leaving about 84 million children out of school system. That being the situation in early 90s and 13 million children being added every year to the child population, now with the legal definition of the child going upto 18 years, the number of non-school going children must have crossed the 100 million mark, i.e., India's 1/10th of population. Most of these children, incidentally, are in various situations of neglect, deprived of their childhood, education, health, food, shelter and clothes, consequently, their basic needs and rights not being fulfilled.

EXTENT OF JUVENILE DELINQUENCY IN INDIA

The comparison of the overall crimes in the country and the crimes committed by juveniles or children will indicate that the situation is not as grim as often projected. The percentage of delinquency in total crimes is in fact quite low in the country when compared to other countries, particularly the affluent ones. This also gives a clue to the fact that poverty is, perhaps, not the most powerful factor behind juvenile delinquency. In fact, very few children under conditions of extreme socio-economic deprivation actually turn delinquents. The children in India compared to their counterparts in the western world are far more tolerant and resilient and they do not jump into crimes straightway, as often believed.

The table below gives a clear picture of the incidence and rate of juvenile delinquency in India under the Indian Penal Code and Special & Local Laws during the period 1989 to 2000.

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Juvenile Delinquency

Year	Juvenile Crime	Total Crime	Percentage of Juvenile Crimes to total crimes	Juvenile boys	Apprehended girls	Total
1989	18457	1529844	1.2	24777	11615	36392
1990	15230	1604449	0.9	25269	5547	30816
1991	12588	1678365	0.8	23201	6390	29591
1992	11100	1689341	0.7	17474	3884	21358
1993	9465	1629936	0.6	16391	3676	20067
1994	8561	1635251	0.5	13852	3351	17203
1995	9766	1695696	0.6	14542	4251	18793
1996	10024	1709576	0.6	14068	5030	19098
1997	7909	1719820	0.5	14282	3514	17796
1998	9352	1778815	0.5	13974	4949	18923
1999	8888	1764629	0.5	13088	5372	18460
2000	9267	1771084	0.5	13854	4128	17982

Source: *Crime in India 2000*, NCRB, Ministry of Home Affairs, Government of India.

The analysis of the juvenile crimes in comparison to the total number of crimes in the country presents a very peculiar situation. During the period, both population and development process have kept going up. Both of these are supposed to be criminogenic. However, contrary to expectations, juvenile crime have shown, in absolute terms, notable decline. What is more the decline in juvenile IPC crimes as a ratio of total crimes is still more notable. In 1989, the percentage of such crimes was 1.2 of the total crimes and, in 2000, it was just 0.5 per cent. Yet another notable fact is the share of girls among those detained for juvenile offences. Substantial all along, it accounted for nearly a fourth of the detentions.

This aside, the steady decline in juvenile offences is somewhat perplexing. An enquiry from the concerned officials of National Crime Record Bureau revealed that it is mostly on account of the non-reporting of juvenile crimes to police. Most of the juvenile crimes, unfortunately, are still being clubbed with the general crimes, i.e., the children in conflict with law are being arrested like ordinary criminals and being produced and proceeded in the courts meant for the adults. Besides the devastating impact it must be having on these children, this also gives a lopsided picture of the juvenile delinquency in the country. It is learnt that majority of juvenile crimes are being transferred by the concerned magistrates to juvenile courts subsequently when the decision is taken following the determination of the age of the juvenile. This is also in complete negation of both the Juvenile Justice Acts of 1986 and 2000, since it is provided that concerned officers may commit such errors in the interest of children but decidedly not against their interest which is happening grossly.

INTERNATIONAL CONCERN

The Second UN Congress on Prevention of Crime and Treatment of Offenders in 1960 stated that juvenile delinquency should be understood as the commission of an act, which when committed by an adult above the prescribed age would constitute an offence in law. The Sixth United Nations Congress on the Prevention of Crime and Treatment of Offenders held in Venezuela in 1980 discussed further and in detail the problem of juvenile delinquency. It was

resolved that there should be the Standard Minimum Rules for the administration of juvenile justice. Every child has its human rights and they should not be denied by anybody. Hence, they said that there should be laws to protect the rights of the children. Consequently, it was accepted that special attention should be given to the steps initiated to prevent delinquency among children and also to homeless and street children in the urban setting. The need for giving special attention to youthful criminality was also given due importance and emphasis. The nature of youthful criminality in semi-urban and rural areas was also considered. Further, similar issues and more were discussed in the meeting at Beijing (May 14 to 18, 1985) which examined in depth the Standard Minimum Rules for the Administration of Juvenile Justice, known as Beijing Rules.

A 'child' has now been universally defined in the *UN Convention on the Rights of the Child (CRC)* as a person under the age of 18. This includes infancy, early childhood, middle childhood and adolescence.

The UN Convention on Rights of the Child, 1989, draws global attention to four sets of civil, political, social, economic and cultural rights of every child. Broadly these are: (i) Right to survival; (ii) Right to protection; (iii) Right to development; and (iv) Right to participation.

India ratified the UN Convention on the Right of the Child (CRC) in 1992 and submitted its initial Report in 1997. India's written response to its initial Report was submitted to the UN Committee on CRC on 15 December 1999. The Department of Women and Child Development, Ministry of HRD, Government of India, constituted a 15 member National Coordinating Mechanism under the Chairpersonship of Secretary for monitoring the implementation of the Convention on the Rights of the Child and for overseeing all other activities directly connected to its implementation.

JUVENILE JUSTICE SYSTEM IN INDIA

Much before the adoption of UNCRC, 1989 India had been concerned with the protection of the interest of the juveniles. In 1850, the Apprentices Act was passed as the first juvenile legislation in India to deal with the children. The magistrates were empowered to commit children between the ages of 10 and 18 years as apprentices to employers, and provisions were made for regulating the relations between such children and the employers.

The Indian Penal Code (1860) exempts children under the age of seven years from criminal responsibility (Section 82). It also exempts children between the age of seven to twelve years, who have not attained sufficient maturity of understanding to judge the nature and consequences of their conduct, from criminal responsibility (Section 83). The Act also provides some protection to the children from the evil designs of the adults (Section 363-A). The Reformatory School Act enacted in 1876 and later modified in 1897, was the next landmark legislation in the treatment of juveniles delinquents. It empowered local government to establish reformatory schools. Under the Act, the sentencing court could detain boys in such institutions for a period of two to seven years but they would not be kept in the reformatory schools after they had attained the age of eighteen years. There was also a provision to license out boys over fourteen years of age if suitable employment could be found. In Bombay Presidency, the Act was applicable to boys under sixteen years of age, while elsewhere it applied to boys under fifteen years of age.

The Code of Criminal Procedure as amended in 1898 provided specialized treatment for juvenile offenders (Sections-29B). Section 399 of the Code envisaged the commitment of juvenile offenders up-to the age of fifteen years to Reformatory Schools. Section 562 provided for probation for good conduct to offenders up-to the age of twenty one.

The Indian Jail Committee (1919-20), submitted a detailed report containing definite observations and recommendations on juvenile offenders. It condemned the practice of sending juvenile to jail and recommended for the setting up of separate machinery for the trial and treatment of children in conflict with law. It felt that imprisonment of child offenders should be prohibited and suggested provisions for Remand Homes and Certified Schools on the lines of ordinary schools. The Committee called for the creation of separate court for hearing of cases against children violating law. The Committee further contemplated the child's release on probation of good conduct with or without supervision of a probation officer as well as for supervision after-release. These recommendations clearly laid the foundations of the Indian Juvenile Justice System.

After Independence, the developments in the field of juvenile justice have been inspired by the constitutional provisions. Article 24 of the Constitution provides that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Article 39 contains that the State shall direct its policy to secure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. Article 45 says that State shall endeavour to provide free and compulsory education for all children until they complete the age of fourteen years. Keeping in view the Fundamental Rights and Directive Principles embodied in the Constitution of India, provinces such as Saurashtra (1954), Utter Pradesh (1951), Hyderabad (1951) enacted their Children Acts. West Bengal enacted a new Children Act in 1959, introducing some new provisions. The Government of India enacted Probation of Offenders Act in 1958 to restrict courts in awarding imprisonment to offenders under twenty one years of age and to direct the removal of all disqualification attaching to conviction. The Government of India also enacted the Central Children Act, 1960 for Union Territories, which was also supposed to serve as model legislation for other provinces, to deal with the destitute and delinquent children separately through specialized institutions.

By 1986, all States except Nagaland had enacted their Children Acts. However, as a result of the experience of implementing the Acts over a considerable period, it was felt that there was a lack of uniformity in the provisions made in various Acts. No minimum standards for basic needs, living conditions, therapeutic services, etc., were being maintained. These gaps, our constitutional and national policy commitments and international conventions necessitated re-enacting the vastly modified JJ (Care and Protection of children) Act 2000.

The Children Act of 1960 was preceded by the United National Declaration of the Rights of the Child in 1959. Concepts became more refined and juvenile justice was adopted by the UN General Assembly in 1985 followed in India by the Juvenile Justice Act, 1986.

JUVENILE JUSTICE (Care and Protection of Children) ACT, 2000

Even the Juvenile Justice Act, 1986 was found to have several gaps in legal provisions and shortcomings by way of linkages between the governmental and non-governmental efforts in the care, treatment and rehabilitation of such children. Therefore, in order to rationalize and standardize the approach towards juvenile justice in keeping with the relevant provisions of

the Constitution of India and the international obligations in this regard, the Govt. of India enacted the Juvenile Justice (Care and Protection of Children) Act, 2000, which is now required to be implemented in letter and its true spirit.

The new Juvenile Justice (Care and Protection of Children) Act, 2000 incorporates the provisions of (i) the Indian Constitution; (ii) the United Nations Convention on Rights of the Child, 1989; (iii) the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules); and (iv) the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990.

Juvenile Justice Act, 2000, is a big leap forward in terms of being a progressive and pro-active legislation for care, protection, treatment and rehabilitation of child in need of care and protection and juvenile in conflict with law. It is a comprehensive legislation for justice to the children in the situation of abuse, exploitation and social maladjustment. The Act provides for safety and security from abandonment and for development of character and personality of the Juveniles to become useful citizens of the country. It enjoins on the states to make provisions for proper care, treatment, development and rehabilitation of the children/juveniles. It also calls upon the state to develop network with the voluntary organizations working in various fields of child welfare to come forward and shoulder the responsibility along with the state to further the care of child in need of care and protection and juvenile in conflict with law.

The institutions under the new J.J. Act, 2000 are supposed to act as the places of safety and for the growth of character and personality of the children. The institutions therefore have to develop suitable programmes to achieve this. The institutions now provided under the new J. J. Act, 2000 are Observation Homes, Special Homes, Children's Homes, Shelter Homes and After Care Organization. These are either the Government run institutions or the bonafide fit institutions run by NGOs which are expected to provide congenial atmosphere for the holistic growth and development of children/juvenile.

INSTITUTIONS

The preamble of the JJ Act, 2000 is very comprehensive which enumerates needs for proper care, protection and treatment of the juveniles / children catering to their rehabilitative and developmental needs while adopting a child family approach. The final disposal / dispositions / rehabilitation through various institutions established under this Act has to be in the best interest of the juvenile / child.

There has been some changes brought in law in respect of the institutions. For instance, 'Observation Homes' earlier made for neglected children are now to become Short-Term Homes for the children in conflict with law. 'Special Homes' will, however, remain the long-term homes for juveniles in conflict with law. For the children in the need of care and protection, the short-term homes are to be called 'Shelter Homes' to be entirely run by NGOs and the long-term homes, 'Children's Homes' which may be run both by the Government and the NGOs. Most of the homes for such children may now be set up, managed and looked after by the voluntary organizations. The responsibility is however cast on the State Governments to create requisite number of homes.

The Act provides to establish and maintain Observation Homes (Section 8), Special Homes (Section 9), Children's Homes (Section 34), Shelter Homes (Section 37) and After-Care Organizations (Section 44), either by the Government itself or under an agreement with the voluntary organizations, in every district or groups of districts. Besides this, the Act also provides for certification and recognition of private homes. The Government may recognize even the reputed and capable voluntary organizations and provide them assistance to set up and administer Shelter Homes. The Shelter Homes could also be set up either for 'juveniles in conflict with law' or 'children in need of care and protection'.

MANAGEMENT OF HOMES

The management of the Homes is the true indicator of the spirit of Juvenile Justice Act being followed. It is the Home where the purpose of the Act is either achieved or defeated. True to the expression, there should be family like environment in the Home and the juveniles should be treated with humane approach, love and affection. The approach of treating the juveniles must be distinctly child friendly. The Home must have sufficient facilities and opportunities for the growth and development of character and personality of the juveniles. The treatment of the juvenile should lead to reform them of their mistakes and inculcate in them some values which can help them become good citizens and social beings. For effective management, the Home must have certain set of rules, procedures and daily routine.

The available studies however, show that there are very few Homes in the country that cater to even the fringe of the problem. The official records point to the fact the living conditions in the Homes are pathetic and inhuman. So much so that several Public Interest Litigations (PILs) were filed in Supreme Court, in Delhi High Court and Patna High Court, etc., against the prevailing conditions of the Homes. These PILs have brought in some improvements, but they are not significant.

The entire situation seems to be a paradoxical. On the one hand, there is a need for more residential institutions for children, while on the other, the existing institutions are not providing congenial environment as per the objectives of the J.J. Act, 2000. The homes continue to be like prisons for both the children in need of care and protection and for juveniles in conflict with law.

The minute details which may result into a good management of the Home, are prescribed under the Ministry of Social Justice and Empowerment (GOI) Model Rules and some of these are reiterated below:

1. The following procedure shall be followed in respect of the newly admitted juveniles namely:-
 - (a) receiving and search;
 - (b) hair-cut (unless prohibited by religion), issue of toiletry items;
 - (c) disinfection and storing of juvenile's personal belongings and other valuables;
 - (d) bath;
 - (e) issue of new set of clothes, bedding and other outfit and equipment (as per scales);
 - (f) medical examination and treatment, wherever necessary, and in case any juvenile suspected to be suffering from contagious or infectious diseases, mental ailments, addiction, etc., he shall be immediately segregated in specially earmarked dormitories wards or hospitals;

- (g) attending to immediate and urgent needs of the juveniles like appearing in examinations, interview, letter to parent(s), personal problems etc., and
 - (h) verification by the Officer-in-charge of the order of the Board, identification marks, register entries, cash, other valuables, etc.
2. Every institution shall follow a schedule of orientation for the newly-admitted juvenile covering the following aspects, namely:-
- (a) health, sanitation, hygiene;
 - (b) institutional discipline and standards of behaviour, respect for elders, teachers, etc.
 - (c) self-improvement opportunities and
 - (d) responsibilities and obligations
3. All residents in the institution shall be given some work, like-
- (a) self-help in maintaining their own establishment;
 - (b) cleaning of open spaces, gardening, etc.;
 - (c) preliminary operations for crafts.
4. A well conceived of pre-release planning and follow up of cases discharged from special homes shall be organized in all institutions in close collaboration with existing governmental and voluntary welfare organizations.
5. **Daily routine:-**
Every institution shall have a well regulated daily routine for the juveniles, which shall be displayed and provide, *inter alia*, for regulated and disciplined life, personal hygiene and cleanliness, physical exercise, educational classes, vocational training, organized recreation and games, moral education, group activities, prayer and community singing and special programmes for Sundays and holidays.
6. **Diet scale:-**
The State Government shall prepare a diet scale, to be strictly adhered to by the institutions, for juveniles in consultation with nutrition experts so that the diet becomes balanced, nutritious and varied with a special diet which may be provided on holidays, festivals and to the sick juveniles as required.
7. **Issue of clothing, bedding and other articles:-**
Each juvenile shall be provided with clothing and bedding, including customary undergarments, towel, jersey for winter, school uniform for juveniles attending outside schools, durry, bed-sheets, blanket, pillow, chappals or shoes and utensils, as required; tooth powder, soap, oil, comb, etc. as per the scale laid down by the State Government from time to time.
8. **Rewards & earnings:-**
Rewards to the juveniles, at such rates as may be fixed by the management of the institution from time to time, may be granted by the Officer-in-Charge as an encouragement to steady work and good behaviour; and at the time of release, the reward shall be handed

over after obtaining a receipt from the parent or the guardian who comes to take charge of the juvenile.

9. Visits to and communication with inmates:-

- (i) The parents and relations of the juveniles shall be allowed to visit once in a month, or in special cases more frequently, at the discretion of the Officer-in-Charge, as per the visiting hours laid down by him.
- (ii) The receipt of letters by the juveniles of the institution shall not be restricted and they shall have freedom to write as many letters as they like at all reasonable times; and the institution shall ensure that where parents, guardians or relatives are known, at least one letter is written by the juvenile every month for which the postage shall be provided.
- (iii) The Officer-in-Charge may peruse any letter written by or to the juvenile, and may for the reasons that he considers sufficient to refuse to deliver or issue the letter, may destroy the same after recording his reasons in a book maintained for the purpose.

10. Prohibited articles:-

No person shall bring into the institution the following prohibited articles, namely:-

- (a) fire-arms or other weapons, whether requiring license or not (like lathi, spears, swords, etc.);
- (b) alcohol and spirit of every description;
- (c) bhang, ganja, opium and other narcotic or psychotropic substances;
- (d) tobacco, or
- (e) any other articles specified in this behalf by the State Government by a general or special order.

The Home should have the facility for medical check up and referral system to nearby hospitals. The juvenile must be examined within 48 hours. The prohibited articles, if found on search, which adversely affect the health, should be destroyed. The other belongings of the juvenile which are valuable must be returned to the juvenile at the time of release. The juvenile may be allowed to go on leave for a short duration to attend emergencies like examination, death, marriage, etc., in the family.

The overall responsibility of managing a Home is on the Superintendent / Manager of the Home. He has to ensure that there is no lapse whatsoever in the maintenance and services being provided in the home. There must be a case file of each juvenile containing the background of the children, report of the probation officer, social history, follow up reports and observation by the Superintendent etc., on the file.

There are, in nut-shell, the prerequisite steps for juvenile's care, protection, opportunities for development and rehabilitation besides for the better management of the Homes. Experimentally, we have found that if the provisions of the Act and the Rules are strictly adhered to in right spirit, the institutions are bound to turn into a child friendly homes.

CONSTITUTION AND POWERS OF THE JUVENILE JUSTICE BOARD

The Juvenile Justice Board has one Principal Magistrate and two social workers as members. The Principal Magistrate is drawn from the judiciary who needs to undergo training in child psychology or child development before or during his / her tenure as the Principal Magistrate member of the Board. The two social workers have also been vested with equal powers. In any final decision, the decision of the majority will prevail. This means the two social workers can also overrule the decision of the Principal Magistrate. Among the powers of the Board mentioned below, one of the most important powers vested with is the power to give juvenile / child in adoption. Previously, this power was being exercised by the Session Court alone under Hindu Maintenance and Adoption Act (HAMA). To prevent any misuse or abuse of authority and failings on the part of individual the Act provides a clause for termination of the members of the Board.

The powers of the Board are mentioned in the table given below:

Sr. No.	Powers of Juvenile Justice Board
1	Release or bail.
2	Release the juvenile on supervision.
3	Send the juvenile to special home.
4	Release on probation of good conduct.
5	Order the parent to pay fine.
6	Can take action against the exploiter.
7	Complete the enquiry within 4 months.
8	Place the children in adoption and foster care.
9	Order the juvenile to perform community services.
10	Order to send a juvenile to observation home.
11	Release after advise or admonition following inquiry and counselling.
12	To hold enquiry through probation officers or recognized voluntary organization.

EXISTING INFRASTRUCTURE

Despite lapse of nearly 17 years since Juvenile Justice Act, 1986, was enforced and now amended, creating a blueprint for child welfare in the country, the implementation of the law and the infrastructure created has not been more than 30 per cent of the requisite. The infrastructure available for the 2 categories of children in different parts of the country are most inadequate. As against 596 Revenue districts (704 police districts) in the country, there were only 280 observation homes, 36 special homes and 46 after-care homes. Only 189 juvenile courts and less than half, Juvenile Welfare Boards were constituted. The total coverage for all categories of children was just about 36,500. The situation has not altered much even now. Until the year 2000, the said infrastructure was more or less the same.

Under the 1986 Act, the Juvenile courts, Juvenile Welfare Boards, Police and various functionaries of the Juvenile Justice system mostly performed 'against the best interest of the children'. The conditions of the homes continue to be pathetic despite all legal provisions Rules. The provisions like 'fit persons', 'fit institutions' and 'place of safety', etc., given in the J.J. Act 1986, have mostly remained on paper, and association of voluntary organizations and individual social workers has been negligible.

PROTECTION TO JUVENILES

The 'juveniles in conflict with law' under the J.J. Act, 2000 have been provided several protections under the Act which form real basis for separating the adult criminal justice system from the juvenile criminal justice system. Some of the safeguards given to the 'juveniles in conflict with law' are mentioned in the table below:-

S/N	Mechanism	Safeguards
1	Apprehension	Special juvenile police, designated police officer, voluntary organization
2	Precaution by the police in apprehension	No handcuff, no lockup, not to be in uniform and production within 24 hours
3	Disposal	Decisions and Signatures by two members is must
4	Defence	The Probation Officer, Child Welfare Officer and the juvenile himself / herself
5	Records	Confidential
6	Photo Publication	Prohibited due to stigma
7	Escape	Home staff accountable to competent authority, Government and NHRC
8	Transfer	Besides State Government and Juvenile Justice Board, the local authority can also order transfer
9	Release	On bail or supervision. The institutionalization should be taken as the last resort
10	Punishment	i. May be required to stay in Special Home for some time.
		ii. May have to perform community service.
		iii. May have to undergo counselling.
11	Sentence	i. No life imprisonment
		ii. No death sentence
		iii. Entirely Reformatory and Rehabilitative
12	Social reintegration	Juveniles can also be given in adoption and foster care
13	Career sustenance	The juvenile can be sponsored like other deprived children to pursue education or vocational training.
14	Removal of stigma	i. Erasure of records after seven years.
		ii. Negative connotations like arrest, neglected, delinquent, etc. dropped.
15	Section 82 & 83 of IPC	No case can be registered against juveniles below 7 year and juvenile between 7 and 12 years and hence they can not be apprehended.

IMPLEMENTATION OF JUVENILE JUSTICE (Care and Protection of Children) ACT, 2000

The Govt. of India had initiated a scheme for the prevention and control of juvenile social maladjustment since the Seventh Five Year Plan. The scheme aims at a fuller coverage of the Juvenile Justice System in the country, both by upgrading the level of existing services as introduced under the Children's Act and by creating additional infrastructure in keeping with the standards spelt out under the Act (J. J. Act, 1986). In providing for differential approach towards neglected vis-à-vis delinquent juveniles, the scheme intended to enhance the role of family and the community. The task still remains mostly unfulfilled even when the 10th Five Year Plan has been launched.

Re-enactment of Juvenile Justice (Care & Protection of Children) Act, 2000, and the Model Rules has been a major initiative taken by the Ministry of Social Justice & Empowerment. The Act and the Rules have already been circulated and now the Govt. has the Herculean task in hand to implement the J.J. Act, 2000, to cover every district in the country. Unless this is done, majority of the children will remain deprived of justice and care. They will be forced to live in the situations of deprivation and neglect where delinquency shall foster.

In the process of formulating the 10th Five Year Plan, as the General Secretary of Prayas, the author was a member of two sub-groups, Department of Women & Child Development and Ministry of Social Justice & Empowerment. In the draft report presented before the Planning Commission, recommendations were made for the budget allocation of nearly Rs. 1107 crores in order to create the basic infrastructure, i.e., Observation Homes, Special Homes, After-Care Institutions. Special Juvenile Police Units, Probation Services besides giving financial assistance to the voluntary organizations during the 10th Five Year Plan commencing from 2002. The significant recommendations included creation of infrastructure, staffing and minimum standard of services, creation of Juvenile Justice Boards and Child Welfare Committees, providing suitable alternatives to the formal and institutional care system, creating transparency and promoting best practices in the governmental and non-governmental agencies through social workers and official visitors, association of the voluntary organizations etc. the implementation of the various provisions of the Juvenile Justice Act in letter and spirit will by itself create the requisite infrastructure and the system to reasonably tackle the problem of juvenile neglect and delinquency in the country.

SALIENT FEATURES OF JJ ACT, 2000

- The age for boys and girls has been uniformly raised to 18 years in accordance with the UN CRC.
- It deals separately, two categories of children i.e. 'child in need of care and protection' and 'juvenile conflict with law'. A 'child in need of care and protection' is a child who due to various reasons is found in difficult circumstances and is in danger of survival and growth. The 'juvenile in conflict with law' are those juveniles who are alleged to have committed an offence. The Act provides separate treatment in the matter of institutional care, legal adjudication and disposition of cases.
- The Competent Authority in relation to 'child in need of care and protection' is Child Welfare Committee and in relation to 'juvenile in conflict with law' is Juvenile Justice Board.
- The members of the Board have been given magisterial power.
- The social workers and the representatives of the NGOs having prescribed qualifications under the Act can now become members of the Competent Authority.
- For the 'juvenile in conflict with law', the Act envisages to establish Observation Homes and Special Homes. For the 'child in need of care and protection', provision has been made to establish Comprehensive Children's Homes. While the Shelter Home and the After-Care Organizations may be established for juveniles as well as children.
- Role of Panchayati Raj institutions and Local Bodies have been prescribed. They can now intervene and make suggestions to improve the functioning of the local Homes. In some cases, they can order the transfer of child/juvenile from one Home to other Home. The Local Bodies have role in nominating the members of the Competent Authority.
- The representatives of voluntary organizations and social workers can become members of Advisory Committee.
- New mode of dispositional alternatives like counselling and community services have been incorporated for the juveniles in accordance with Beijing Rules.
- A new chapter on rehabilitation and social re-integration comprising of adoption, foster care and sponsorship has been added.
- The police have been assigned specialized role in accordance with Beijing Rules. A Special Juvenile Police Unit shall be set-up in every police station. A police officer of the rank not below an Assistant Sub-Inspector (ASI) shall be designated as Child Welfare Officer. He shall be assisted by two local voluntary social workers.
- A new concept of Social Audit has been introduced in accordance with Beijing Rules.
- Besides police, the social worker and the voluntary organization have role in production of children before the Child Welfare Committee.
- A child himself/herself can appear before the Competent Authority and demand his/her rights.
- Juvenile/child cannot be kept in police lock-up or jail.
- No juvenile can be sentenced to death or life imprisonment.
- Effort shall be made to release the juvenile on bail or probation. Institutionalization should be the last resort.