

An Unfinished Journey

Evaluation of the Scheme for Juvenile Justice, Ministry of Social
Justice & Empowerment, Government of India

About The Study

Child Rights and You (CRY) along with the **Ministry of Social Justice and Empowerment** with the intent of enabling a larger understanding of the situation of children in institutions and to add to the knowledge bank on juvenile justice reform processes in the country took a **study across 159 institutions in 9 states of India**. The task was to contribute to the then ongoing debate of whether the Juvenile Justice Act, 2000 was being implemented in its true spirit.

The study draws attention to some difficult truths and the challenging tasks when re-evaluating policy as far as Juvenile justice goes.

What came clearly and was recommended by CRY was that the focus of efforts through the Scheme for Juvenile Justice should be on

1. Protecting and promoting the **dignity and personhood of children** in the care of the State.
2. Institutionalization of children should be the **exception rather than the rule**
3. **Restoration of children** to families and guardians needs to be prioritized
4. Any scheme for children needs to be **inclusive for all children** especially for children requiring special care.

The study attempted to encompass children's experience, quality of infrastructure facilities provided, staffing profile and capacity building requirements of the staff, quality of care provided, special needs especially of girls, rehabilitation efforts and education of children in institutions.

Some highlights of the study indicated that:

1. Children entering institutions almost never do it out of choice and their major **concern was separation** from their families.
2. Children were most articulate about their concern with the **quality of educational**
3. The children in institutions also have **inadequate options for relaxation** and an overall sense of **powerlessness**.
4. 74% of respondents admitted to having **punished** children.
5. Over two-thirds of adult respondents admitted that children were **not consulted**
6. Nationally 55% superintendents reported that children in their care have **tried to escape**

The study also highlighted the **inadequate and lack of qualified staff** in most institutions and the prevailing sentiment of being **unprepared for adult life** when the child especially the girl child left the institution once 18.

Executive Summary

1. Introduction

1.1 The Constitution of India guarantees the fundamental right to life to all its citizens including children and considers every child to be the ward of the State. India has more than 246 legislations and about 30 laws directly related to the protection of children. This is partly due to children outside of family care being identified as those most vulnerable and at risk. With the Juvenile Justice Act, 2000, the Indian state made a significant statement on its responsibilities towards its children.

1.2 Overview of the Study: State governments have set up several institutions for the development and rehabilitation of children, under the Department of Women and Child Development, Social Welfare department, Tribal Development etc. Around the time the JJ Act 2000 was being developed, CRY-Child Rights and You, along with like-minded NGOs, launched the nationwide advocacy initiative on quality institutional care and alternatives for children (QIC&AC). Aware of this experience, the Ministry of Social Justice and Empowerment has asked CRY-Child Rights and You to evaluate and assess the programme for juvenile justice, a scheme drafted in 1999. The evaluation of the scheme assesses both the quality of care and protection being provided to children and whether the norms of the scheme are being adhered to. The study enables a larger understanding of the situation of children in institutions and will add to the knowledge bank on juvenile justice reform processes in the country. It will also contribute to the ongoing debate of whether the Juvenile Justice Act, 2000 is being implemented in its true spirit.

1.3 **Scheme:** The Ministry of Social Justice and Empowerment has designed a scheme under which state governments receive 50% of the cost of running a home for children in need of care and protection as also for running homes for children in conflict with law. The scheme entitled 'A Programme for Juvenile Justice' was revised in 1998-1999 to ensure that the facilities for all children in institutions - those classified as children in need of care and protection and those as being in conflict with law - are provided in line with the standards accepted through national and international commitments made by the Government of India.

Evaluation of the Scheme for Juvenile Justice

The scheme attempts to secure and promote the dignity and rights of both groups of children; focusing equally on alternate care models including foster care and sponsorship. Its approach is to ensure that select categories of children in conflict with law only are processed through a formal system consisting of Juvenile Welfare Boards and correctional institutions. The scheme also emphasizes the use of services of voluntary agencies at the stages of referral, placement and rehabilitation of children. High priority is given to the training of juvenile justice functionaries from the courts, police and correctional agencies as also of workers in the field.

To achieve its objectives the scheme includes the formation of a National Advisory Board to advise the government on matters relating to the JJ Act, to facilitate co-ordination amongst the various official and non-official agencies at the national level and also administer the Juvenile Justice Fund that has been created under this scheme. The fund is recommended to be used for training programmes for judicial and administrative personnel, police and other persons involved with the implementation of the act. It also mandates the expansion and development of services such as foster care, sponsorship, community-based rehabilitation and scholarships for children. The scheme includes the formation of a social audit panel to monitor the facilities for children in institutions across the country.

1.4 The current evaluation of the Scheme: This evaluation provides an opportunity to the Government to critically assess its scheme, reassess the norms and ensure that these are more children friendly and appropriate to state specific needs. The study's nature is unique in comparison to other researches conducted as it takes into consideration a wide variety of indicators ranging from rights of the children, gender, disability, funding, staffing, reasons for institutionalization, functioning of bodies set up under the Act amongst many others.

The study will enable a larger understanding of the existing situation of children based on their rights in institutions. The evaluation includes the following 5 areas of the scheme- programmatic interventions, finance, governance, participation by civil society groups and human resources. A total of 159 institutions, both government and NGO run, were studied in 9 states i.e. Maharashtra, Uttar Pradesh, Karnataka, Tamil Nadu, Delhi, West Bengal, Bihar, Manipur and Orissa. A range of institutions that catered to girls and differently abled children have been covered. To ensure that the study is participative and all stakeholders are

considered, it has been conducted through a series of interviews, group discussions and observations from children to front line implementing staff to the key national and state level decision makers.

1.5 **Rationale of the evaluation:** Quality Institutional Care and Alternatives for Children (QIC&AC) is a national initiative working in eleven states across India and is facilitated by CRY-Child Rights and You. It has been an active advocate on issues related to children in state-run and NGO-run child care institutions ensuring on the one hand, quality care in institutions, rehabilitation and social reintegration of children through family-based and community-based alternatives and on the other, prevention of institutionalization. QIC&AC has been working in collaboration with the state and central governments to ensure that the rights of children in need of care and protection are met. The initiative has realised the need to identify the gaps in the protective environment for children that has led to the overuse of residential care. This collaborative evaluation of the Programme for Juvenile Justice is part of that effort.

2. Historical Perspective

2.1 The current Juvenile Justice System is the product of a long history of concerns put forth by civil society; acts, enactments, policies and programmes of the Government that came into existence over a period of time. The Juvenile Justice System was initially informal in nature and the joint family, caste groups and village community looked after the child in need of care and protection. However, with industrialization, urbanization and the breaking up of the joint family, this system was no longer able to provide for the care of needy children. In the 19th century, the British government formulated legislations with protective provisions for children, like Apprentices Act, 1850, The Indian Penal code 1860 etc. The Indian Jail Committee's report of 1919-20 led to an overhaul of the entire prison system. The system of each state enacting children's acts came into being in the pre independence era. By 1986, all the states except Nagaland had brought out their children's acts.

The first central legislation on juvenile justice was passed in 1986 by the Parliament. A National Programme of Action on Children was formulated in 1992. The combination of a growing focus on the issue of juvenile justice combined with the pressure faced by the government to submit a country report to the Committee On The Rights Of The Child

outlining concrete achievements, seems to have inspired the Ministry for Social Justice & Empowerment to draft a new law on Juvenile Justice, the final outcome of which was the Juvenile Justice (care and protection) Act, 2000.

3. Juvenile Justice Act, 2000-A Step Forward

3.1 The Juvenile Justice Act, 2000, is a progressive and proactive legislation for justice to children in situations of abuse, exploitation and social maladjustment. It enjoins the State to make provisions for the care, protection, treatment and rehabilitation of children in need of care and protection and juveniles in conflict with law. Developing networks with voluntary organisations working on child welfare is emphasized.

3.2 *Similarities and Advances between the 2000 Act and the 1986 Act:* The Juvenile Justice Act 2000 defines juvenile/child as a person who has not completed the age of 18 years against the previous enactment which defined juvenile as boys who had not completed the age of 16 and girls who had not completed the age of 18. The adjudicating authority is re-designated as the Juvenile Justice Board. Under the old act the classification of delinquent juveniles and neglected juveniles was meant to separate the two categories of children with the Juvenile Welfare Board and the Juvenile Home meant for the neglected juvenile and the Juvenile Court and Special Home meant for the delinquent juvenile. The separation was only a partial separation, as pending inquiry both categories of children were kept in an Observation Home together. The new law ensures a complete separation between the two categories as children in conflict with law are kept in the Observation Home and neglected children are sent directly to the Juvenile/Children's Home. However, this shift itself seems to be a cursory attempt at changing the deeply custodial nature of the entire JJ system. Restoration of children to parents, adopted parents or foster parents is emphasized for children in need of care and protection. While the concept of minimizing the stay of children in homes is laudable, the advisability in situations such as of sexual abuse is questionable as too the immediate applicability in case of street children and children in prostitution.

4 Organization of the Report

4.1 The research study is divided into two volumes. Volume one highlights the historical perspective of juvenile justice in India, views the factors causing delinquency and the related theories as well makes a comparative analysis of the JJ Act 1986 and 2000. It presents the analysis of the data collected from a cross section of stakeholders including staffing patterns, trainings held, children's voices, gender issues, funding patterns, infrastructure and expenditure and rehabilitation of children. This Volume examines the requirements of the scheme, its limitations and provides recommendations and suggestions for the way forward.

4.2 Volume two explains the processes involved during the research including a literature review of the works conducted prior to this study, to enable value addition to that which has already been done and possibly fill in the gaps. This Volume also annexes the important tables related to the findings and all the research tools.

5. Aims and Objectives of the Study

5.1 **Relevance of the Present Study:** Five years after the enactment of the Juvenile Justice Act, 2000, the gap between current reality and the implementation of the Act is huge. Large numbers of children continue to enter the system either due to economics or dysfunctional families but also owing to ineffective gate-keeping mechanisms at the state level. There is no authentic database of children in institutions or of the institutions themselves nor research available on the foster care system or of any community based rehabilitation model. Minimum standards are not maintained in the running of institutions. There is no uniformity across the country on the regularization of institutions.

The enactment of JJ(C&P) Act 2000 was heralded as an opportunity to positively change the juvenile justice system and the condition of children. On the one side it has been appreciated for introducing more non-institutional alternatives and emphasizing social auditing etc. while on the other, it is criticized on various grounds like raising the age limit without taking stock of available institutional facilities etc. This study would be a first attempt to study the new Act vis-à-vis its effectiveness and relevance and assess the impact of changes on the juvenile justice system and the situation of children.

5.2 **The Broad Objectives:** These are to monitor and evaluate the programme vis-à-vis the objectives and norms set under the scheme; to assess the effectiveness and relevance of the

scheme and the implementation of the J. J. Act, 2000; to evaluate the scheme in terms of the budget and expenditure in the running the programmes; to recommend necessary changes for effective implementation of the Act; and to evaluate the quality standards of care within the institutions.

5.3 The Specific Objectives: These are to assess the quantum of assistance being provided by the Ministry under the scheme for 50% reimbursement of expenditure; to evaluate whether the Homes adhere to the Juvenile Justice Act, 2000; to assess the quality of care being provided to children staying in various Homes under the scheme; to review the measures being adopted for reform of children in conflict with law in addition to their care and protection; to suggest whether the number of various Homes provided under the Act are adequate or whether more or less numbers are required; to assess the level of NGO participation in running of these Homes in various states; to appraise the efforts being made for the mainstreaming of the children in Homes and the quality of education and vocational training provided; and to evaluate the efforts being made for restoration of children to their families and reintegration of children into society.

6. Children's Experience in Institutions

6.1 Children entering institutions almost never do it out of choice. Only 128 children, about 10% of the total admissions surveyed, came into the system voluntarily. A majority of children are brought into the system by the police, followed by biological parents.

6.2 Children responded freely to questions about their family but were guarded about their experiences in the homes. Their major concern was separation from their families. A large proportion admitted they did not feel safe in the institution. Incidents of children trying to run away, attempting to escape an institution are perhaps the most sensitive indicator of the quality of care provided and the child's own perception of happiness and security within the environment.

6.3 Children have no say over what food they eat. Over two-thirds of adult respondents admitted that children were not consulted while deciding menus. Not surprisingly, only 33% of children stated that they like the food served.

6.4 Schooling facilities are limited. In a majority of institutions, children walk to school. The range of vocational trainings offered in institutions is narrow and not in alignment with either the children's aspirations or their bent of mind. Children were most articulate about their concern with the quality of educational and skill development facilities provided within the institutions.

6.5 The children in institutions also have inadequate options for relaxation. 95 institutions have a playground as mandated by the scheme; however 20% of the superintendents felt these were inadequate. Moreover, the superintendents of 84 institutions admitted that the recreation facilities provided to children in their care are inadequate. About one third of the homes (51) do not have a recreation room. Children also experience an inability to implement decisions about how to spend their free time and an overall sense of powerlessness.

6.6 Particularly revealing is the proportion of institutions where punishments have been given to children. Nationally, 74% of respondents admitted to having punished children. Counseling appears to be the preferred form of punishing an errant child, ranging from a mild scold to a harsh dressing down in front of peers. However, the analysis also shows that counseling is accompanied by one or more of a selection of punishments. These vary from locking up children, to corporal punishment, to denial of privileges, including restrictions on the kind of food the child is allowed to eat.

6.7 It is only in 2 of the 9 states that superintendents reported that children have not tried to escape. At the national level 55% superintendents reported that children in their care have tried to escape. In at least two institutions, locking up was listed as one of the punishments for a child who tried to escape.

6.8 There is however another group of children, those who take their own lives due to the experience within the homes. Investigators came across 2 such cases.

6.9 Instances of running away or choosing death over continuing in an institution spotlight the gravity of the situation. Children's experience within an institution has to be the benchmark against which the State's commitment to children, especially those in its care, can be judged.

7 Detailed Findings

7.1 Profiles of Homes Surveyed: The JJ Act 2000 has classified homes into 5 categories. The study found that the homes are yet to adapt to this clear-cut classification. Nevertheless the child-care homes do differentiate between children in conflict with law and CNCP. For the purpose of this study, the homes are grouped into three categories: 1) the homes with children in conflict with law alone, 2) the homes with children in need of care and protection alone and 3) the homes where children who are classified under either category are housed. Children in After Care homes are also included, all of whom are classified as children within the CNCP category. The sample also includes homes which are managed by NGOs, and which receive a grant from the government for the care of the children therein.

A majority of homes house children who are in conflict with law; the proportion of homes where children in conflict with law and those in need of care and protection live together is about 20% of the total sample.

The Survey intended to achieve parity between boys' homes and girls' homes. However, it was observed that the boys' institutions outnumber girls' institutions. Of the homes that were surveyed, 76 were boys' homes, 44 were girls' homes and 29 institutions had both boys and girls.

7.2 Quality of Infrastructure facilities provided: The scheme details the kind of facilities that children in the care of the State are entitled to. The scheme, has two set of norms- one for Observation Homes (50 children) and another for Juvenile homes/ Special Homes (100 children). This study has based its analysis on the norms prescribed for Special Homes for all the homes under evaluation.

I. Funds for providing quality infrastructure to children: Of the 131 institutions that responded, about 60% raise additional funding from other sources. 54 institutions do not receive any additional funds. Of the superintendents of 117 institutions who responded, 67 receive funds after they submit their budget to the government, while 46 receive funds as reimbursements. In 4 institutions, the method of dispersal is a combination of both the

methods. Superintendents of about 90% of the institutions said that they were able to fully utilize the funds.

II. Building and Location of the Institution: According to the information available from 144 institutions, only 98 have their own buildings though the scheme indicates the preference for owned premises. The scheme asks that institutions be located in un-congested (without clarifying what this means) areas that are well linked with various means of communication. Of the 151 institutions whose data is available, 73 are located in residential areas. In only one state were all the homes located in non-residential areas.

III. Provision of Water: Information with respect to source of water is available for 142 institutions. Of these, 39 (28%) institutions get water from multiple sources. About 41% homes have access to direct water supply from the respective water supply boards while 59% depend on wells, hand pumps, tube wells etc. As regards to the quality of water, it was found that only 39 institutions provide filtered/treated drinking water to children.

IV. Provision of Standard Medical Facilities: Of 144 institutions that responded, only 56 have a medical room and 70 a sick room. 114 institutions record the medical history of all children, 113 institutions have first-aid kits and 92 institutes keep stock of medicines. However, ambulance facility is not available for 126 institutions. In 17 institutions, the researchers found medicines that were past the expiry date. In 121 institutions the researchers noticed that the medical rooms were not clean. Medical checkups happen regularly, but with long gaps. There are 3 homes where the health check-ups are done just once a year.

V. Provision of Recreation Facilities: Overall, the children in institutions are found to have inadequate options for relaxation. The Scheme seeks the presence of sufficient playground area in each institution and one recreation room for every 100 children. Of the 144 institutions that have responded, 49 institutions (34%) have stated that they do not have a playground. Even among the 95 institutions that do have a playground, almost 20% of the superintendents (from 16 institutions) felt that the area available was inadequate. Moreover, the superintendents of 84 institutions themselves have stated that the recreation facilities are inadequate. The scheme provides for an 800 sq foot library in every institution – only 60 (39%) institutions have a library.

VI. Provision of Educational Facilities: Even the staff is not satisfied with the educational facilities being provided to children. 66% of the interviewed superintendents found the facilities inadequate. Children have limited or no access to school education. In about half the institutions, children have to walk more than one km to get to school. While in most states there is some provision for primary education, there is little else.

VII. Provision of Space for Workshop for Vocational Instructions: Of the 144 institutions that have responded, only 41% of institutions have an independent space for a workshop. Even among the 60 institutions who responded in the affirmative, the superintendents of 11 institutions have stated that the work space available is insufficient.

7.3 Staffing Profile: The Scheme for juvenile justice provides for a range of management and child care professionals to look after children in the care of the state.

I. Superintendent: The Scheme provides for one Superintendent in each institution of 100 children. One out of three institutions does not follow the norm. The scheme prescribes a minimum qualification of M.A. (Social Work) for superintendents. However, the superintendents in more than 65 institutions (45%) are graduates or less. In fact, the superintendents in 10% of the institutions are not even graduates.

II. Welfare Officers: As per the scheme, there shall be four Probation Officer/Welfare Officer/ Case Workers for every 100 children in each institution. In none of the institutions surveyed has this norm been followed. It was also noted that 49 institutions do not have sanctioned posts of welfare officers and 62 institutions did not have a welfare officer.

III. Warden: As per the scheme, there shall be 1 matron/warden for every 100 children in each institution. Of the 77 institutions, only 34 institutions follow the prescribed norm. According to the scheme, the wardens need to be matriculates with training in child care. The study has found that 95% of wardens are at least matriculates, with more than 50% being graduates.

IV. Caregivers: As per the scheme, there shall be 8 caregivers for every 100 children in each institution. Only 5 institutions of the 120 surveyed follow the prescribed norm. While 16 institutions have reported that they do not have any caregivers, 19 institutions have stated

that there are no sanctioned posts of caregivers. As per the scheme, caregivers should be matriculates with knowledge of child-care. It was found that about 52% of the respondent caregivers are non-matriculates. In fact, 10% of them have not even passed 5th standard.

V. **Teachers:** As per the scheme, there shall be 2 teachers for every 100 children in each institution. While 32 institutions follow the norm of 2 teachers for every 100 children, 59 institutions do not. According to the scheme norms, the teachers should at least be trained graduates. Only 68% of the teachers who responded were at least graduates. About 17% of teachers are just matriculates.

VI. **Vocational Training Instructors:** As per the scheme, there shall be 1 vocational instructor for every 100 children in each institution. While 42 institutions follow the stipulated norm, 43 institutions do not follow it. We do not have information from 53 institutions while 22 institutions have confirmed that they do not have sanctioned post of vocational instructors. The random profiling of one vocational teacher each from 55 institutions shows that 55% are females while 91% are full-time teachers.

VII. **Cooks:** As per the scheme, there shall be 1 cook for every 100 children in each institution. While 90 institutions follow this norm, 32 institutions do not. For 16 institutions the required information on number of cooks was not made available. 14 institutions have reported that they do not have cooks. 9 institutions have stated that there are no sanctioned posts of cooks in their institutions.

VIII. **Cleaners:** As per the scheme, there shall be 2 cleaners for every 100 children in each institution. While 14 institutions follow this norm, 81 institutions do not. For 43 institutions, the required information on number of cleaners was not made available. 18 institutions have reported that they do not have cleaners while 12 have stated that there is no sanctioned post of cleaner in their institution.

IX. **Guards:** As per the scheme, there shall be 1 guard for every 100 children in each institution. While 78 institutions follow this norm, 17 institutions do not. 19 institutions have reported that they do not have guards. 49 institutions have stated that there is no sanctioned post of guard in their institutions.

7.4 Capacity Building: The scheme requires institutions to organize training programmes, seminars and workshops for the staff. As per the response from superintendents of 144 institutions, only 36 institutions (25%) conducted any staff development programme. 69 institutions (48%) have stated that they send their staff to external training programmes.

Only 31% of the superintendents had received any training before joining the institution and just 52% received any training after joining. This coupled with the qualification norms not being met indicates a serious problem. Only 15% of wardens had attended any training programme before joining while only 25% of them attended any training programme after joining. Only 12% of caregivers attended any training programme before joining. 38% of them attended some training programme after joining.

As per the norms set out in the scheme, suitable training programmes for teachers should be organized in subjects like child psychology and child development. On recruitment, they should be given training for a period of four months. Only 32% of teachers had attended the stipulated training programme after joining.

7.5 Quality of Care within Institutions: The scheme has quantified a series of quality of care norms which while useful, are limited in the context of trying to understand whether children are receiving quality care. 'Care' has not been defined.

I. Care-Plan for Every Child: As per the norms set out in the scheme and under the JJ Act, 2000, children within the homes are entitled to a range of services. Yet in two out of every three homes, there are no care plans for children. Similarly each warden in position is responsible for a much larger number of children than prescribed. There is also limited oversight maintained. In 125 institutions for which data was available it was found that a majority of care-givers are not maintaining records as per norms.

II. Counseling of Children: Children in 56% institutions are able to get some counseling support but it is still the group sessions which pre-dominate. 44%(63) institution have no counseling services.

III. Nutritional Quality and Quantity: As per the responses from 156 children of age group 6-18, only 53% have stated that they are served meals at least four times a day. 42%

of children are served meals thrice a day. About 5% children get meals only twice a day. Of the 176 children from 151 institutions who responded to the query of whether they like the food served in the institution, only 58 children (33%) answered in the affirmative. As a majority of cooks in 135 institutions interviewed admitted, children were almost never consulted on food they would like to eat.

IV. Provision of Clothes and Footwear to Children: Of the superintendents from 144 institutions who responded, 93 stated the institution provided school uniforms to children. Only 102 institutions provide slippers to the children.

V. Sanitation and hygiene: The Scheme has fixed norms in respect of sanitation and hygiene as well.

a. **Drainage system:** Only 97 institutions (67%) have proper drainage.

b. **Garbage disposal:** 59 of the 144 institutions that responded dispose their garbage in the nearby garbage bin or pit. 29 institutions avail the services of the local authority/corporation and 15 institutions burn the garbage.

c. **Cleanliness in Kitchen:** Of the 116 institutions that have responded, 101 institutions clean their kitchens everyday.

d. **Protection from mosquitoes:** Of the 144 institutions, 49 institutions provide mosquito nets, 31 have arrangements for pest sprays and 19 institutions use coils and repellants to keep mosquitoes away. However, 39 institutions (27%) have confirmed that they do not provide any facilities in this regard.

e. **Washing of Clothes:** The scheme clearly states the necessity for arrangements for washing clothes everyday. Out of 139 institutions, 85 institutions have claimed that they have arrangements as per norms, 32 institutions get the clothes washed twice a week, and 18 institutions once in a week. 4 institutions have responded “whenever child wants”.

f. **Boiling of soiled clothes:** Of the 144 institutions that responded, more than 48% institutions do not have any arrangements.

g. **Sunning of bedding and clothes:** The scheme calls for the sunning of bedding & clothing twice a week. None of the 118 institutions from whom clear information is available follow this norm.

h. **Personal hygiene:** A key concern of staff and most of the girls in the homes was the lack of adequate personal hygiene care products. 85% of the institutions had no arrangement for sanitary pads.

8. Learning and Insights

8.1 Alignment with the Juvenile Justice Act, 2000: The scheme lags behind the Act. While notionally the rights perspective informs the scheme, the attitudinal shift from a criminal justice framework to a child rights framework remains incomplete.

a. The scheme continues to use the term 'inmate' for children living in institutions and juveniles in conflict with law, instead of the accepted and preferred terminology which is non-judgemental.

b. The scheme does not properly address the Act's requirement for the gate-keeping institutional arrangements such as the CWCs, JWBs and JJBs. A number of grey areas remain. Qualifications for appointments are not necessarily followed. Many JJB members are not familiar with the Act. In nearly one in four districts, the CWCs are not functional.

c. The scheme does not provide physical space for the functioning of the CWCs and the JWBs. Thus, in some cases the JJBs are operating from within the premises of a home or a jail or a police station. All of this is in contravention of the Act.

d. In some institutions the norms of the 1986 act are still being followed. Cases of direct violation of the Act's provisions are found in homes and the JJ system; children are being locked up and a child was seen handcuffed.

8.2 Effectiveness of the Scheme Design: The scheme has basic design flaws at two levels: the first is at the level of enforcement. There is no mechanism to ensure that the letter and spirit of the scheme's provisions are being followed. Vacancies at all levels of decision-making

and implementation persist. There is a time lag between sanctioning and deployment of funds. The second design flaw lies in the scheme not having placed the child and his/her rights at the core of planning and design. There is no space for the child's voice. The scheme has been designed keeping in mind the profile of a universal child. That each child's story is different and the need for locale-specific, contextual decision-making in the best interest of the child is not recognized.

8.3 Issues related to Home Personnel: Institutions have serious staff shortages and in a significant number of cases, the appointed staff does not have the mandated qualifications. However, while in most homes the support staff positions are adequately filled, there is a lack of satisfactory number of trained professionals who can provide necessary quality care. Staff shortage creates a series of problems for the existing staff. Overall their focus is on four main areas: inter-personal issues; unsatisfactory administrative support, inadequate or complete lack of facilities and dealing with the children in their care.

Strategic decision making positions are filled by inadequately qualified personnel. Their lack of qualifications is not being made up for with adequate training. Capacity building of institution staff is not accorded adequate priority. The trainings and staff development programmes are usually external to the institution and generic in nature and do not equip the staff to cope. Similarly, the front-liner positions of care-givers are also regularly staffed by under-qualified professionals with inadequate training.

Within the work area, many of the issues that affect children's lives also affect the staff, especially the poor quality of infrastructure facilities. It is the strong sense of inadequacy while dealing with the children in their care that is the staff's greatest concern.

8.4 Quality of Care within the Institution: While detailed quantitative norms have been laid out as benchmarks to ensure children's welfare, there are no qualitative guidelines.

Incidences of overcrowding have emerged in nearly all of the states surveyed. It is in homes with the maximum overcrowding that shortage of staff was most glaring. The staff shortage usually necessitates children being asked to work within the home.

Overall the quality of infrastructure services provided to children in the care of the State is poor. Children in institutions have very few options for relaxation. Where recreation facilities exist, the quality and the range necessary for overall development of children is inadequate. Of particular concern is that facilities are relatively poorer in the case of girls, especially for outdoor sports.

8.5 Health Facilities: Children in the institutions are at risk of both communicable and non-communicable diseases. Many homes are public health hazards. Without adequate medical attention, and insufficient counseling support within the homes, the emotional needs of children are also inadequately addressed.

8.6 Food availability: Researchers found that staff admitted to inadequate and bad quality food, with the focus on meeting the minimum dietary norms rather than giving a variety, which is both tasty and nutritious for children. The sameness of the food is a concern for children.

8.7 Education Facility: In many cases, children have been denied access to education. 19 institutions had no facilities for educating students, in 18 instances the school was more than one km distant from the home and in 4 cases the school was more than 5 kms distant. In a majority of instances, children are expected to walk to school. With nothing to do except eat and sleep, children tend to get frustrated and this leads to further emotional problems. In some homes, classes are being held within the institution by inadequately trained staff.

8.8 Children with Special Needs: The study has revealed the system's inability to provide adequate support and care for those more in need. Even for those children with special needs whom the system has been dealing with for decades- such as orphans, victims of child abuse and disabled children, the range of services and the quality of care provided is not adequate. Thus the ability of the system to deal with more recent concerns such as HIV positive children is suspect.

8.9 Girl Children: There is a range of life experiences that girls alone face: within the homes are girls who are unwed mothers or are widowed with small children, when they themselves are children. Yet the system, while recognizing the reality of these scenarios, has found it

difficult to incorporate them within programme design. There is no space within the scheme to develop context-specific solutions that are in the best interest of the individual girl child. For example budgets do not allow flexibility to buy sanitary pads when required and in adequate numbers. Other issues raised include the number of male staff posted to girl's homes, of privacy for girls in mixed homes, and of the limited range of vocational trainings offered and the consequent type of adult life they are being prepared for.

8.10 Rehabilitation efforts: The concern about what will happen after the age of 18 years permeates through the system and while less articulated by the younger children, is certainly felt by the older ones, who instead articulate their fears in the form of the desire for more training and the need for secure employment. While in some homes efforts have been made to provide vocational training opportunities, these are related to specific kinds of skills, primarily in what are perceived to be male occupations: carpentry, electrical repairs. For girls, the options are limited further to sewing and knitting. For girls marriage is seen as the only safe and secure long-term option.

What happens to children who leave the homes is often the indicator of how well or otherwise a scheme is functioning. While there are some success stories of children reintegrated with their family, of greater concern, is the number of children who on leaving the home are unable to reintegrate or move away from the atmosphere of the homes as their regular contact with their families and the outside world is restricted and dependence on the home as the only familiar environment gets built.

8.11 Perceptions of Research Team: The evaluation of the scheme for juvenile justice has involved over 50 field investigators and a large research team-both direct and indirect. The field investigators compared the facilities available against the norms set out within the scheme.

a. **General Environment:** The ambience of the institution was assessed to be cheerful and happy in 64 institutions, while about 79 institutions appeared dull, drab and strict with their rules of conduct for children.

b. **Condition of basic utilities:** More than 50% of the institutions rated average to poor on the condition of clothes, undergarments, shoes, slippers and towels.

c. **Conditions of Dormitories:** Only 25% of institutions had good conditions in the dormitories considering lightning, ventilation, cleanliness, flooring, etc.

Research Investigators also interviewed decision-makers at various levels, individuals who have the power to influence the experience of children within the system. It was interesting to note that all of those interviewed were aware, indeed knowledgeable about the situation that children face within the institutions.

8.12 Perceptions of State Commissioners: According to them the single most important step taken to implement the new Juvenile Justice Act is the creation of JJB/CWC and all requisite bodies and institutions as required under the Act. Among the problems identified are: inadequate finances, difficulties of convergence of government organisation and NGOs, inadequate numbers of professionals especially to provide counseling, difficulties in identifying qualified individuals to take on responsibilities of JWB and CWC and interface with the police for the institutions.

8.13 Perceptions of JWB/CWC members: Five specific criteria that most influence the decision whether to send a child to institutional care are: Whether the child is a case-offender or non-offender; Age of the child; Availability of space in the institution; Special needs of the child; and Family background of the child.

Problems faced include lack of co-operation from institutions, no resources for making visits to homes, low preference for non-institutional services, delayed receipt of guidelines/directions from the State government and the attitude and related actions of the police etc. The reasons for incomplete implementation of the Act are seen as the absence of political will and in some instances political interference in decision-making; inadequate financial support; absence of coordination among judiciary, JJB and district court; inadequately trained staff and bureaucratic delays among others.

Some of the suggestions for improvements in the Scheme include increased allocation of financial resources; an independent body for monitoring the services within the institutions; more staff along with sufficient orientation programmes; provision for attitudinal training of the staff etc. Three areas of possible involvement of the community, especially NGO

participation are: in running institutions and their day-to-day management; provision of the additional monetary support and help in the rehabilitation of children. They also perceived specific roles for some other stakeholders such as National Human Rights Commission - to monitor and evaluate the facilities under JJ(C&P) Act 2000 periodically; to make appropriate recommendation to the Central as well as State Governments etc. They also want to strengthen the Juvenile Justice Fund.

8.14 Perceptions of District Social Welfare Officers: The major constraints in effective implementation of the Act include vacancies in CWC/JJB and unqualified members; magistrates still perceive children as offenders; the police are not sensitized enough; funds are inadequate and grants irregular; space constraint; lack of awareness of the provisions of the Act; the political pressure is high and power centralized; and the absence of political will. Some of the steps needed for implementing the Act are improving facilities within institutions; providing training to staff; awareness generation about non – institutional services; more funds; children be relinquished only before CWC- this was seen as work of CWC/JJB and not their own; bring children from Jails to Observation Homes etc.

Inadequate funds and irregular grants from the Centre, confusing norms, inadequate and untrained staff, friction between CWC and staff of the institution, overall lack of facilities are a few of the problems faced in implementing the Central Government Scheme. Challenges are posed by the time constraint of district social welfare officers who handle other government schemes, the number of institutions to be supervised is large on top of which there is political pressure. The restoration and rehabilitation of children is a major problem.

8.15 Perceptions of members of NGOs/Social Workers who volunteer in Institutions: They perceive a role for themselves in managing the institutions/programmes as well as general coordination with the government, helping children with food, clothes, recreation, studies and vocational instructions; facilitating training programmes for staff; assisting in the rehabilitation process for children; providing medical aid and psychological services; financial assistance to the institution and assisting in rescue operations.

The suggestions for implementing the JJ Act more effectively include greater involvement of NGOs and the community, management to be supportive of the involvement of NGOs; more financial resources and infrastructure facilities; CWC/JWBs members need to be

appointed and given more powers; well trained and adequate staff and simplification of the Act. Some of the problems faced include uncooperative staff and management, staff does not allow community members to interact with children, laws regarding child sexual abuse are not properly implemented, only children coming from red light area are subject to the ELISA test and pre-test counseling is not provided and there is lack of transparency in homes run by Government as well as NGOs.

9. Limitations

- a. Most of the states are yet to follow the 5- tier (Observation home, Children's home, Special home, Shelter home & After Care home) institution system as prescribed in the new Juvenile Justice (C&P) Act 2000. Therefore during the selection of the sample it was not possible to follow this institutional pattern.
- b. Although the Scheme has separate norms for Observation homes and for Children's homes/Special homes, few institutions follow this categorisation. Consequently the norms for Children's Homes/Special Homes were applied for evaluating all the categories of homes.
- c. The researchers have made a maximum of three visits to any institution. The constraints of time, access and resources prevented investigators from visiting the same institutions again and again to ensure that all schedules are completed.
- d. Researchers noticed that many staff members were unwilling to share information related to children and quality of care within the institutions. Despite repeated probing, the researchers were unable to obtain information in respect of certain queries owing to which "No Response" data in each schedule was high.
- e. Although the research team made all efforts to provide a facilitative environment where children could speak without fear, the time spent with children was inadequate to build confidence and trust and probe adequately. Further, due to staff's presence, majority of the children were unable to express their problems in detail.
- f. In all cases, the institutions were provided prior intimation of the evaluation study. In some cases, the researcher's observations and informal conversations with children and some staff appeared to present a different reality from that which the records revealed. However, the observations could not be corroborated and thus the data-based findings may not present a

completely accurate picture of the quality of care provided to children. They do however, accurately reflect trends.

g. Majority of the institutions did not have full strength of staff in place. Some posts were either not sanctioned or many others, even if sanctioned, were lying vacant. Although this particular information on vacancy of posts was captured, the absence information these post holders would have provided, reduced the sample size.

h. The information like sanctioned and actual number of children in the institution, number of posts in each staff category and age group of children could not be validated through independent or written records in all cases.

i. Although the tools had elaborate queries on financial matters, in many cases the collected data was inadequate. Staff in institutions often did not have the financial details requested and researchers observed a hesitation to share information on finances with an external agency, especially in situations where they had only partial information.

10. Recommendations

a. The present scheme for juvenile justice be aligned with the letter and spirit of the JJ Act 2000 at every level of implementation. The focus of efforts through the Scheme for Juvenile Justice should be on protecting and promoting the dignity and personhood of children in the care of the State.

b. Support for the effective functioning of the CWCs and the JWBs should be built into the scheme. This would include capacity building and infrastructure.

c. Mechanisms for enforcement of norms be incorporated within the scheme. Among the mechanisms, model code outlining norms for withdrawal of support and subsequent de-licensing of institutions and debaring of individuals running them should be included.

d. Regular and timely release of grants from the Centre and corresponding release of matching contribution by states, should be the norm. At present this is the exception.

e. Maintenance of records, which reflect the reality of institutional functioning, should be the norm instead of the exception as at present. Record maintenance, needs to be supported by independent verification. Credible civil society organizations may be part of this activity.

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f. The best interest of each individual child should be the principal norm guiding design and implementation of interventions. The conception of a home be a safe space, where residents are free to move around.

g. Institutionalisation of children should be the exception rather than the rule. This would include exploring and encouragement of non-institutional options such as foster-care, group homes, community backing, including temporary family support. An exploration of alternative care models should be one of the research priorities emerging from the scheme.

h. Restoration of children to families needs to be part of the scheme for juvenile justice. The District Rehabilitation Committees in Maharashtra are performing well. An in depth examination of the model, assessing the potential for scalability and replicability should be conducted with a view to incorporating within the scheme for Juvenile Justice.

i. Children with disabilities are part of the system, their special needs require greater attention including making available specialized professional support within institutions. A follow-up study on the availability of facilities and the efficacy of the quality of care provided needs to be taken up towards development of norms as a separate section within the scheme.

j. Significant improvement in the quality of care provided to children within institutions is required. This includes all aspects of the child's experience. Of special concern is the non-maintenance of public health standards in the care of children. There needs to be at the least a GP on call for every institution.

k. Social Audit, as mandated by the JJ Act 2000, be conducted in the homes at least once a year and be made part of the annual assessment.

l. Children, both those resident in the homes and those who have now left should be participants in any assessment, with their voices, heard and listened to.

m. A Capacity building programme be designed which highlights the attitudinal and behavioral norms required to work with children within homes, in addition to a knowledge base and technical skills.

n. Education of children should be made compulsory, with the institution mandated to ensure that children get good quality education, through formal schools as far as possible.

o. The Staffing Pattern recommended in the Model Rules of the JJ Act 2000 shall be applied to all the States and be enforced in all institutions irrespective of being NGO-run or State-

run. As far as possible, girls' homes should have a significant proportion of female staff, at all levels including leadership and decision-making.