

**'SEMINAR ON CHILD LAWS AND JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015 WITH SPECIAL FOCUS ON REHABILITATION AND SOCIAL INTEGRATION OF CHILDREN'**

Under the aegis of

**The High Court Committee on Juvenile Justice,  
Judicature at Allahabad**

Organized by

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## Introduction

Juvenile Justice is a key area of social policy, dealing with a growing number of children and youth who have been marginalized and displaced by rapid socio-economic changes. The framers of the Constitution of India placed a duty on the State to ensure that they live a life of dignity and respect. By also ratifying the United Nations Convention on the Rights of the Child, the Government of India had, in 1992, made a promise to protect the civil, political, cultural, economic and social rights of children. Yet, 40% of our children continue to live in deplorable situations both within the statutory homes under the Juvenile Justice (Care and Protection of Children) Act 2015 Act (JJ Act), as well as in the wider community, a harsh reality that clearly demonstrates that justice is not being done to children, and that the law is still largely only on paper. During the deliberations, the Act was hailed as a progressive legislation and one of the finest of the world, particularly because juvenile justice law is not aimed at retribution but rehabilitation of the child. Success in adhering to legal obligations under the Constitution and the UNCRC requires commitment of the State, in active collaboration with civil society partners to implement this welfare legislation in letter and spirit. This commitment is dependent on and determined by the collective ability of all stakeholders to perform their roles and responsibilities with diligence and a sense of mission, which in turn will better ensure that no child enters the system a second time.

UNICEF has been collaborating with the judiciary in its efforts to build adequate structures and systems for the effective implementation of the JJ Act at the National and State levels. The Juvenile Justice (Care and Protection of children) Act, 2015 is a stepping stone towards child protection with better law which has been imbued with the essence of sensitivity for child protection and child rights with the finest approach. With the emerging scenario, coming under the purview of Judiciary, it is extremely important to ensure the implementation of the Act in its true spirit putting all the stakeholders together to understand their significant roles in changing the lives of children.

The Juvenile Justice system is a critical factor in determining how children will be rehabilitated and reintegrated in society. This not only covers situations where a child is in conflict with law or is in need of care and protection but also includes critical issues like the process of rehabilitation and social reintegration, orders passed regarding a child in need of care and protection, delinquency prevention, law enforcement, adjudication, role of stakeholders in reintegration and services provided in the institutions. It is a key area of social policy, dealing with a growing number of children and youths who have been marginalized and displaced by socio-economic changes.

Effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2015 is a matter of concern for the Hon'ble Supreme Court and the High Court, Juvenile Justice Committee hence regular meetings and time bound reporting formats have been into a regular schedule for monitoring on such issues. The Committee instructions have played a vital role in making improvements in the working of the Homes and organization under the Juvenile Justice (Care and Protection and Children) Act, 2015 and the Juvenile Justice (Care and Protection of Children) Rules,2015. The Seminar is an initiative to interact with the stakeholders responsible for the rehabilitation and social reintegration of children, specially the newly appointed Child Welfare Committees and Juvenile Justice Board Members.

The Committee of Hon'ble High Court, Judicature at Allahabad held a review meeting with the Department of Women and Child Development in which the condition of Child Care Institutions and process of rehabilitation and integration had been a major issue which also came into consideration through the letter of Respected, Additional Solicitor General of India. It was hence decided to have a seminar with special focus on the procedures taken by the stakeholders in consideration to their roles and responsibilities which would promote learning in developing strategies for effective implementation of the JJ Act.

It was proposed through a series of such seminars, the state of Uttar Pradesh will put together a status report on the juvenile justice system that highlights the critical issues and implementation challenges, best practices and recommendations for policy making and implementation.

The Seminar should embark the issues on the Juvenile Justice System with special focus on the rehabilitation and restoration of children in need of care and protection. Such children struggle from the myriad tribulations due to vulnerability, delinquency, addictions, etc. Thus, the Juvenile Justice Committee, Hon'ble High Court, Judicature at Allahabad took the initiative to have discussion over a very important and significant part of the Juvenile Justice Act. The Judiciary, Government, stakeholders and the society play individual roles and are imbued with the responsibility to understand them for therapeutic and constructive ways for children.

### **Objective**

The Juvenile Justice Committee, Hon'ble High Court took the initiative, considering the need of the hour for the children who have been reported as missing, residing in child Care institutions, trafficked etc.

The focus were on some key areas related to the functioning of the statutory bodies under JJ Act, rehabilitation of children in need of care and protection and children in conflict with law, minimum standards of care in institutions, monitoring mechanism and the role of stakeholders for better monitoring by the High Court, Juvenile Justice Committee. It is proposed that within these areas the focus of the seminar on:

- Sensitization of the stakeholders and concerned officials
- Discussions on Roles , responsibilities and duties of various authorities under the JJ Act, 2015
- Discussion on Procedures for children in need of care and protection along with rehabilitation and social reintegration
- Identification of gaps in the current system
- Discussion over special orders and enforcements
- Best practices that can be scaled up or replicated

## Inaugural Sessions

### Welcome Address

The Principal Secretary, Department of Women and Child Development, Uttar Pradesh welcome the Chairperson and Members of Juvenile Justice Committee, Hon'ble High Court and all dignitaries present in the Seminar. She expressed her gratitude to Hon'ble Committee for mustering all stakeholders at one platform for discussing major areas of concerns in implementation of Juvenile Justice Act and other major child laws. Being the Nodal department of implementing Juvenile Justice(Care and Protection of Children) Act, 2015, she emphasized the commitment of Department in putting system and mechanism in place for effective implementation with better coordination with related stakeholders.

### Message from Hon'ble Chief Justice

A Note of Hon'ble Chief Justice, High Court , Allahabad was shared, expressing his concern for the children and appreciated the Department of Women and Child for giving a platform for learning and sharing initiatives for various stakeholders.

### Introduction to Seminar

Hon'ble Mr. Justice Vikram Nath, Chairperson, Juvenile Justice Committee, Hon'ble High Court expressed his concern for the current situation in the state which has to be addressed by various interventions. The State Government is imbued with the responsibility of the Children and so is every individual in the society for which such seminars are a platform for discussion and planning to way forward. The Hon'ble Committee, is monitoring the implementation and functioning of the Juvenile Justice Act in the State, it was extremely important to analyse and identify the gaps for making a child protective state. Hon'ble Chairperson shared the following points :-

1. **Sensitisation of Government officials** who are dealing with children in different areas and different levels .Specially, police at the time of interface with children, Principal Magistrates making decision for bails with utmost sensitivity. The Superintendents play a very important role in taking care of every need of the child to make them feel loved and happy at the child care institutions, government officials while making policy decisions,etc.
2. **Rehabilitation and Restoration of children** should be the focus for children who are in need of care and protection.
3. In order to achieve Reformation, children should **follow a structured day program**, activity plan etc designed by social workers and counselors according to their specific needs.
4. **Specialised counseling** to help them with goal motivation and self confidence
5. **Vocational training along with formal as well as non formal education** to help them grow and grow their personalities
6. Necessity to **Document the progress of these children** so as to understand the gaps and important areas of retrospection
7. **Promote rehabilitative programs** which can provide children a respectful and financially independent, self earned living
8. Services like family **counseling and recreational therapy** should be promoted.

9. **Follow ups and Child Care institution visits by Government officials** to ensure quality of services being provided to children
10. **Effective utilization of government funds** being provided for children.

Hon'ble Chairperson, in his concluding statement has emphasized on the role of such workshop and seminars for identifying critical issues and suggested that such workshop should be organized in regular interval paving a platform for all stakeholders to discuss the convergence and support to achieve the proper implementation of Juvenile Justice System.

### **Technical Sessions**

The experts were called upon to interact and help in critical analysis of the issues emerging due to defunct policies, insensitivity, unawareness and technicalities of the Act. It was organised with the view of learning and sharing experiences regarding the children who are in need of care and protection. Best practices of various institutions were also discussed , which gave clues for therapeutic activities for children. Importance of regular Counseling, sensitization of staff, activity plan etc. were also discussed which have showed their impact in giving children a better reintegration into the society in their after lives amidst the society. The motive of the session was to get together and contribute to the JJ System with the support of various stakeholders from the level of planning to implementation. In the interactive sessions various issues were discussed by CWC members, DCPO staff, Superintendent, etc. considering the best interest of the child.

The objective points as discussed were :

- Critical issues/ Key challenges in Rehabilitation and Social Re-Integration of Children in need of Care and Protection
- Importance of the services provided by institutions and process of rehabilitation and restoration of Children in need of care and protection/sharing of best practices of other state
- Discussion on the Role of Law enforcing agencies with Special Focus on Railway Police/ Special Juvenile Police Unit
- Challenges in Rescue, Protection and Restoration of Children
- Discussion of practical problems and way forward

Key Speakers for technical sessions (Senior Government Officials)

1. Shri. Kamal Saxena, Secretary, Department of Home
2. Shri. Bhagwan Swarup, Inspector General (Crime)
3. Father Antony Sebastian, Director, ECHO, bengaluru

Key Speakers for technical sessions (External Experts):

1. Shri. Anant kumar Asthana, Adv. High Court , Delhi
2. Ms. Bharti Ali, Director, HAQ, Center for Child Rights, New Delhi

### Technical Session 1

The technical session 1 started with an analysis on the Critical issues/ Key challenges in Rehabilitation and Social Re Integration of Children in need of Care and Protection. Mr. Anant Kumar Asthana discussed various judgements and technicalities of the JJ Act.

The key points highlighted by Shri Asthana are :-

- Major struggle at the current moment is in building a Juvenile Justice System and inducing philosophical, conceptual and procedural understanding of Law into the System.
- Care and Protection of Children prescribed in the JJ Act is oriented towards Rights of children and welfare approach is subject to Rights which should be imbibed by every individual coming in contact to the children directly or indirectly
- The State has a major role of a facilitator in implementing Juvenile Justice Act. Citizens, Community, Social Organizations and Government Departments have to work jointly to bring a gradual but a permanent change.

Mr. Asthana highlighted issues of pendency of cases of juveniles which should be mapped by the state level committee in consideration to every concerned parameter. The working of JJBs should be reviewed to analyse the reasons for the pendency of cases. He in particular highlighted that the pendency of cases shall be set with a limit, defining it as a responsibility of the JJBs.

The Department of Women and Child development should ensure the needful for the proper working and functioning of the juvenile Justice Boards in the Child Care Institutions/defined places.

The session was continued further by Shri. Kamal Saxena(IJS), Secretary, Department of Home, with a brief discussion on the Challenges in Restoration and Rehabilitation of Children faced by Police. He initiated the session explaining the underlying principle of the Juvenile Justice (Care and Protection of Children) Act, 2015, which is Reform and Rehabilitation and not punishment.

He explained how the effective functioning of the Juvenile Justice System works on its 4 major components :-

- Child Welfare Committees
- Juvenile Justice Boards
- Provisions of Legal services to children
- Management of Homes

Considering the practical problems at execution/ implementation level he highlighted the following points:-

1. Functionaries will have to devise appropriate measures based on Act and Rules with the actual point of view of Police considering the following-
  - Police is more inclined to follow Cr.PC while JJ Act lays down a different procedure. This creates functional unintentional errors.

- In spite of efforts to train the police personnel, the mind set and the skill set of the police is not adequately trained to be sensitive and child friendly as envisaged in the guiding principles of the JJ Act.
  - There emerges a need of cadre of social engineers and workers to be established (refraining from using the word 'police'). This is more of a social need to bring the juvenile delinquents into the main stream of the society. Two years of internship work experience in management of homes can be made mandatory for government jobs.
  - Community based rehabilitation-There is need to share the responsibility of rehabilitation with the family, school and community- with an inclusive attitude so that they become role models for children.
2. With the passage of the JJ Act, 2015, the possibility of children between the ages of 16 and 18 years being tried as adults for heinous offences has arisen. This means that a separate set of reform and rehabilitation measures will have to be taken for such children.
  3. Juvenile Justice System should aim at addressing the vulnerabilities of children and ensuring their rehabilitation. Sustainable hand holding and monitoring of the children will be required. There is no well defined Exit Plan for the inmates who have attained the age of 18 and have no place to go. (abandoned by the family). Absence of clarity on after care and rehabilitation on attaining 18 years of age.
  4. Formal education should be replaced with sustainable skill development with minimum standards of literacy.
  5. Juvenile in conflict with law have a tendency to taking to drugs alcohol, beggary, perpetrators of criminal gangs, violence, human trafficking etc. Database of juvenile in conflict with law should be made available to the police.
  6. Lack of awareness of welfare programs.
  7. Lack of follow up with other states. Difficulty in tracing the families of the children, particularly of migrant homeless families.
  8. Lack of coordination between police, JJB and CWC
  9. There is no fit facility to house children in need of care and protection and children in conflict with law between sunset and sunrise. This is a huge challenge to police officers apprehending children during odd hours.
  10. Community support is lacking. Police does not enjoy trust of the community.
  11. Unavailability or insufficient numbers of police/SJPU as escorts for restoration.

With the concluding points of his session, he explained about the recent efforts made by the Department of Home pertaining to Women and Children like an innovative and unique attempt by the Home Department, Government of Uttar Pradesh with support of UNICEF, series of two-day training programmes have been conducted to train and sensitise the District Government Counsels on laws and issues related to women and children. UNICEF has undertaken a program to sensitize police stations staff on Juvenile Justice Act 2015 and POCSO Act 2012 and develop 20 Police Stations as Child Friendly Police Stations.

He further added that since 35 Anti Human Trafficking Units have been established in UP, it is very important to sensitize and take every possible step to strengthen these units. He also added that the Victim Compensation Scheme is functional in UP which is being supported by the Department of Home. He also quoted that the Department of Women and Child Development through Mahila Eevam Bal Samman Kosh is also contributing for in building faith in society for the betterment of children through Government Schemes in every aspect.

### **Technical Session 2**

The sessions were compiled with a way forward for the Inspector General (Crime), Uttar Pradesh to discuss the ground level technicalities and issues faced by Police.

Shri. Bhagwan Swarup, IG (Crime) focused on the day to day issues faced by the police at the time of rehabilitation of children. He raised a very major concern of police for providing shelter to the victim of Sexual Assault and Rape when they come in contact with Police. This issue was raised with utmost concern as the victim is not given shelter in Children Home and the Women Shelter homes also do not accept a child/victim in the given situation. The Principal Secretary, Women and Child Development shared about Asha Jyoti Kendras which would help in sufficing the need of Police for the period of her going through various procedure as given by the Act like medical checkups , FIR and others.

Shri. Swarup also focused on an untouched area of sensitization of doctors which would help in better working through the required procedures of the Act. He suggested that the doctors shall be identified and fixed for handling such cases which would help in assigning them responsibilities with ensuring outcomes.

Focusing of the need of Rehabilitation and Social re Integration of Children the session was continued by Fr. Antony Sebastian, Director, ECHO Center for Juvenile Justice (Bengaluru). The session was based on the Rehabilitation of Children for which he focused on the understanding of the JJ Act which is consolidated and amended for children alleged and found to be in Conflict with Law and in Need of Care and Protection. The Act caters to their basic needs through proper care, Protection, Development, Treatment and Social Integration. It is important to understand that it adopts child friendly approach in disposal of matters in their best interest for their rehabilitation and reintegration through procedures provided and institutions established. He highlighted that the Ultimate Aim of the Act is Rehabilitation.

Fr. Sebastian tinted the session for suggestives on having a positive approach and believing in bringing changes in the lives of Children. He shared the system being followed by ECHO for Children in Conflict with Law as well as for those who are in Need of Care and Protection. ECHO has been identified and appreciated by the State of Karnataka, giving them the recognition as an Observation Home as well. The Social Workers of the organization follow therapeutic, positive and right based approach for reintegration of children in the society. He shared the flowchart of adjudication of Juvenile Justice system and it's functioning.

He suggested that it is important to consider every aspect of the juvenile Justice System giving it's full meaning and spirit to the Act.



The Key points to this suggestion were:

- To promote and protect the rights of children in difficult circumstances
- Provide support for Advocacy, reformation, education and reintegration.
- Prevention of street and working children from getting into crime and their rehabilitation
- Networking with various stake holders at National and international levels
- Research and Documentation of Juvenile rights and its violations
- Lobbying and advocacy for the protection of rights of Juveniles

He briefly shared the Holistic Approach of ECHO in Rehabilitation and Reintegration of such Children. It is an in line procedure to be followed , considering every aspect from Prevention to Follow up of the said cases.

**Prevention** should start from Crime Mapping ,to sensitization and hand holding support of Special Juvenile Police Unit (SJPU), which would further help in Community Based Rehabilitation Programme

**Interventions** through free & timely legal aid for Observation Home, Children's Home should be made with Case Studies & Follow ups.

**Rehabilitation** programmes should be planned and implemented like ECHO tied up programmes with Traffic Police Assistance Program, Hotel Management, Group Foster Home. Finally compiling all with timely Follow ups.

It was highlighted that the SJPU Police personnel and Social workers should work hand in hand for the welfare of the children. The Social workers should also visit police stations regularly and submit report to JJB and CWC. Regular Home Visits and follow-ups are also part of the SJPU Social workers functioning. Training by State Government to stake holders and for the Police personnel should be a part of the regime to work in a child friendly manner.

With the concluding session over Rehabilitation and Reintegration of Children , the participants were asked to contribute with their suggestions and share the problems faced at their intervention levels. The Discussions came up with the following Key points/suggestions:-

1. Sittings of JJBs should be increased , especially in the critical districts where pendency of cases are also high.
2. A district level problem solving Committee should be constituted. The DM, CMOs, DPOs, CWC and JJB members should be part of this committee. This will help in sharing ideas from various stakeholders for the strengthening of child protection system. For this purpose the Principal Magistrates and it's members can also be co-opted in the District Child Protection Unit.
3. It is very important to provide all possible facilities to the Principal Magistrate to ensure smooth and better functioning of the JJBs with regular sittings, helping in disposal of time bound and more cases.
4. Campaigns should be organised to trace the children from state, who are found to be in other states and vice versa.

5. A protocol / SOP should be developed to facilitate the process of restoration of children back to their families.
6. System should inculcate and evolve process for mapping of children's vulnerability. The need assessment of districts should be conducted on regular intervals.
7. There is need for inter-departmental sharing of relevant data / information on Children issues for developing appropriate strategies.
8. It is very important to emphasis on After Care services for children who are without families and are in need of care and protection.
9. Follow up of restored children is extremely important and the state Government should assign responsibilities, ensuring timely reporting for a long term reintegration to avoid re-lapse and ensure.
10. There is need for district wise identification of Support persons & groups. The list and information should be provided to CWCs, JJBs and SJPU's.
11. The Department of Women and Child Development should ensure timely as well as due compliance of suggestions/ recommendations received under Inspection reports from Principal Magistrates.
12. Similar models as presented by ECHO Bangalore on group fostering, linkage for employability and Standard of Care in CCIs can also be replicated for a gradual and positive change.
13. Lack of sufficient number of SJPU's and AHU's also effects the functioning of the Juvenile Justice System. There is a need for creating more child friendly police stations by the police/ home department. The focus should be conducting sensitization and capacity building on the issue.
14. It is very important to conduct mass level awareness generation on Children issues, concerns and provisions of various acts/ legislation on children.
15. Identification of individuals for developing cadre of psycho –social support to provide services to children in need of care as well as children in conflict with law situations.
16. Creating linkage with DLSA and their agencies for free and timely legal assistance to children.

The discussions were closed for the Valedictory Sessions.

### **Valedictory Session**

#### **Comments over the Seminar**

The Valedictory session was compiled with the **comments over the seminar** by Hon'ble Ms. Justice Vijay Lakshmi, who appreciated the efforts by the Department with support of UNICEF and NCPCR for giving an open platform to the major stakeholders for a comprehensive discussion over such an important issue of the society.

#### **Observations**

The Remarks and Observations over the sessions were further given by Hon'ble Mr. Justice Rakesh Srivastava, Member, Juvenile Justice Committee, Hon'ble High Court. The Hon'ble

Member focused on the importance of sensitization and awareness of stakeholders as well as for the society. He emphasized on regular training and orientation programmes focusing on various issues of the Juvenile Justice System. The Principal Magistrates and Judges of children's Court should also be invited to participate in such training programmes. Since the State of Uttar Pradesh is at its nascent stage of developing state Juvenile Justice Rules, suggestions from JJBs, Protection Officers, DCPOs and different stakeholders should be invited for consideration.

A blog, Google group, facebook page etc. can be developed and used by the department for inviting suggestions in the interest of children. This will also help in creating awareness of provisions, programmes and will create a strong society value for children coming in contact of any possible individual.

### **Concluding Remarks**

Hon'ble Ms. Justice Naheed Ara Moonis, Member, Juvenile Justice Committee, Hon'ble High Court gave her remarks over the day long sessions and the objective of the seminar. She strongly raised the emerging issues of the Juvenile Justice System which can be addressed with joint efforts and collaborations with various stakeholders. Hon'ble Justice explained about the emergence of the act and its need for implementation in its true spirit. The juvenile Justice System cannot compromise in its functioning as it endeavors the lives of many children.

### **Vote of Thanks**

Shri. P.K. Srivastava, Director, Judicial Training and Research Institute, Lucknow thanked the Hon'ble Committee and Shri. Ashok Mehta, Additional Solicitor General of India for initiating the concept of such seminars on Child protection which uphold a major role in bringing changes through the Government, stakeholders and Society.

### **Conclusion:**

*'Are we doing enough for our children in difficult circumstances'* is a question that aroused in front of all stakeholders responsible for implementing the Act in the Seminar. The emphasis was laid on the fact that the system cannot work without an interdependence of judiciary, police, government and civil society. A clarion call was made to all to 'introspect, to become more sensitive, and to work together, keeping the child and not self-interest as the key focus', a call made to the Hon'ble judges of the High Court Committees, officers of the various Departments, the Commissions for Children, CWCs, JJBs, NGOs, academic institutions and the wider community. The Seminar came with the outcome to all stakeholder to strengthen our collective conscience in order to secure a better and more dignified life for children, and reflect this through pro-active action on a mission mode to implement the JJ Act in letter and spirit, in the best interest of children and the nation as a whole.

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