

Rehabilitation through Education for Juveniles in Conflict with Law

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By

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Abstract

The Juvenile Justice (Care and Protection of Children) Act is the governing legislation for 'Juveniles in Conflict with law' in India. The main objective of this act was to set up an alternative justice system for their rehabilitation. The onus of its implementation is on the Department of Women and Child Development and the Juvenile Justice Boards. Though the necessary infrastructure has been set up under the 'Programme for Juvenile Justice', the delivery mechanism in the form of both institutional and non-institutional services is severely lacking.

The aim of this paper has been to examine the following:

- First, the provisions for rehabilitation that have been provided for 'Juveniles in Conflict with law', as per the Juvenile Justice Act, 2000 and Model Rules, 2007
- Second, the provisions are actually in place
- Third, the monitoring mechanism in place to assess and improve the effectiveness of whole process.
- Lastly, while addressing the flaws in both the legislation and the present system, make recommendations for improvements by drawing from both indigenous and international success stories.

Keeping in mind the multidimensional nature of this issue, the limitations of this paper must also be highlighted. The scope of this paper while addressing the issue of rehabilitation through education will deal only with the provisions of formal education, vocational training and counseling (and a little on community services) available to

these juveniles. Also the observations made in this paper pertain mostly to the juvenile justice system in Delhi.

Key words: Juveniles in Conflict with Law, Rehabilitation, Formal Education, Vocational training, Counseling, Monitoring

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1. Abbreviations

JICL-Juvenile/s in conflict with law

JJA-Juvenile Justice Act

JJB-Juvenile Justice Board

C.W.O-Child Welfare Officer

P.O.-Probation Officers

S.J.P.U.-State Juvenile Police Unit

S.I.R-Social Investigation Report

C.R.C-Convention on Rights of Child

O.H.B-Observation Home for Boys

Definitions

- Juvenile in conflict with law means a juvenile who is alleged to have committed an offence and who has not completed eighteen years of age;
- Observation home means home established by a State Government or by a voluntary organization and certified by that State Government for the temporary reception of JICL during pendency
- Probation officer means an officer appointed by the State Government as a probation officer under the Probation of Offenders Act, 1958 (20 of 1958)
- Special home means an institution established by a State Government or by a voluntary organization and certified by that Government under section 9 of JJA
- Special juvenile police unit means a unit of the police force of a State designated for handling of juveniles or children (JJA,2000)

2. Introduction

While addressing the issue of marginalized children, a category of children that is almost always overlooked is the 'Children in Conflict with Law'. Many believe that 'these children get what they deserve' and want to do little about the treatment meted out to them. However it must be realized that a juvenile given his relative immaturity does not quite understand the consequences of his actions and is extremely susceptible to his surroundings. The latter has added implications in a developing country like India which is reeling under the problems of acute poverty and inequalities.

Slowly changing perspectives have led to the emergence of an alternative justice system for juveniles. However while drawing an alternative system for juveniles, both the interests of the child and the interests of the society must be kept into perspective. So while on one hand an alternative system for juveniles must champion minimum intervention by law and minimum institutionalization, on the other it must make sure that the rehabilitation process is strong enough to prevent them from coming into conflict with law again.

3. Background

In India, the share of crimes committed by juveniles has been on a rise. According to NCRB reports the rate of Juvenile Crime has increased from 0.9% in 1999 to 2.1% in 2008 which in absolute terms means a rise in incidence from 8888(1999) to 24,535(2008). These crimes seem to have serious socio-economic implications. About 62.4% of Juvenile crimes are committed by children who have never gone to school or have had education till only primary level. Moreover, a large chunk of juveniles (62.2%) belong to the poor families whose annual income is up to Rs. 25,000/-. (NCRB .2008)

3.1 History and International legislations

The first concerted effort at a legislation to safeguard the interests of JICL was made in the 20th century through the Madras Children Act, 1920. This was followed by the Bengal and the Bombay Children Act. Soon enough, there was a need felt for having such a legislation at the national level and consequently the Children Act, 1960 was implemented.(Adenwala.2006:13) In 1968 the first Juvenile Justice Act was passed and a distinction was made between the different machineries to handle 'delinquents' and children in need of Care and Protection. (Adenwala 2006:15)

In this midst, a significant number of international legislations to safeguard the interests of JICL, were also enacted. Notable among these, were the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh

Guidelines). In 1992, India ratified the UN Convention on the Rights of the Child. It is in this backdrop that the Juvenile Justice Act, 2000 was drafted, which is at present the main governing legislation for JICL in India.

In the UN CRC, there is a clear emphasis on the social reintegration of JICL as stated:

“States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.”

The CRC also goes on to identify educational, vocational training and counseling among other needs as important for the well-being of these kids:

“A variety of dispositions, such as care, guidance and supervision orders; counseling, probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence. ”

As in the convention, the JJA too identifies education, training and counseling as needs imperative for improving the quality of life of these children and urges the mobilization of all resources for their provision. However it is not explicitly stated how these provisions are to be made. It was only after the Model Rules for this Act were passed in

2007 that some semblance of clarity was obtained on this issue. But as is idiosyncratic to India much was lost in translation from a drafting a legislation on paper to implementing it in the real world.

3.2. Overview of the rehabilitation process

The Principle of the Best Interest of the Child under the Model Rules, 2007 states:

"The traditional objectives of criminal justice, retribution and repression, must give way to rehabilitative and restorative objectives of juvenile justice."

This principle must be internalized in the system from the very 'first point of contact', i.e. when the police apprehend the juvenile. On apprehension the juvenile must be placed under the charge of a designated Child Welfare Officer at the nearest Police Station, while the parents and probation officer must be contacted within 24 hours. A distinction is then made between serious (an offence which for adults, would entail a punishment for more than seven years) and non-serious offences (offence entailing punishment for less than 7 years for adults). For serious offences an FIR are registered and the juvenile is produced before the Juvenile Justice Board (JJB) within 24 hours. For offences of non-serious nature, the Child Welfare Officer makes a daily diary entry and intimates the parents to forward the information concerning the juvenile to the Board. In the first summary inquiry (the first time the juvenile is produced before the board) itself, the juvenile is granted bail or sent to an observation home taking into consideration the report given by the police.

The Child Welfare Officer is required to submit a Social Background Report(SBR) which gives information about the circumstances in which the juvenile was apprehended, his/her social background and generally appries the Board of the reason for committing the offence. Along with the SBR a Social Investigation Report (SIR) is prepared by the probation officer and submitted to the JJB. These two documents are instrumental to the kind of orders that are passed by the JJB while disposing the case. According to the JJA, 2000 the board as per its discretion can-

- (a) Allow the juvenile to go home after advice or admonition following appropriate inquiry against and counseling to the parent or the guardian and the juvenile;*
- (b) direct the juvenile to participate in group counseling and similar activities;*
- (c) order the juvenile to perform community service;*
- (d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money;*
- (e) direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years;*
- (f) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years*
- (g) Make an order directing the juvenile to be sent to a special home.*

(JJA, 2000.Clause 15)

The Model Rule also necessitates that every dispositional order must contain an Individual Care Plan prepared by the probation officer to facilitate the rehabilitation process. The individual care plan must, among other needs, cater to the educational, vocational and counseling needs of the juvenile in question. To address these needs the Model Rule directs the State to delineate the role of each department and develop linkages with NGOs. A State Juvenile Justice Fund is also to be set up for meeting with the expenses incurred to implement the programmes of restoration and rehabilitation.

The process of the rehabilitation can be better illustrated by the following flow chart¹:

¹ Here, CWO-Child Welfare Officer
P.O.-Probation Officer
JJB-Juvenile Justice Board
Obs. Home-Observation Home
SBR-Social background Report
SIR-Social investigation Report
Advised-Juveniles who are advised/admonished and released
Spl. Homes-Special Homes

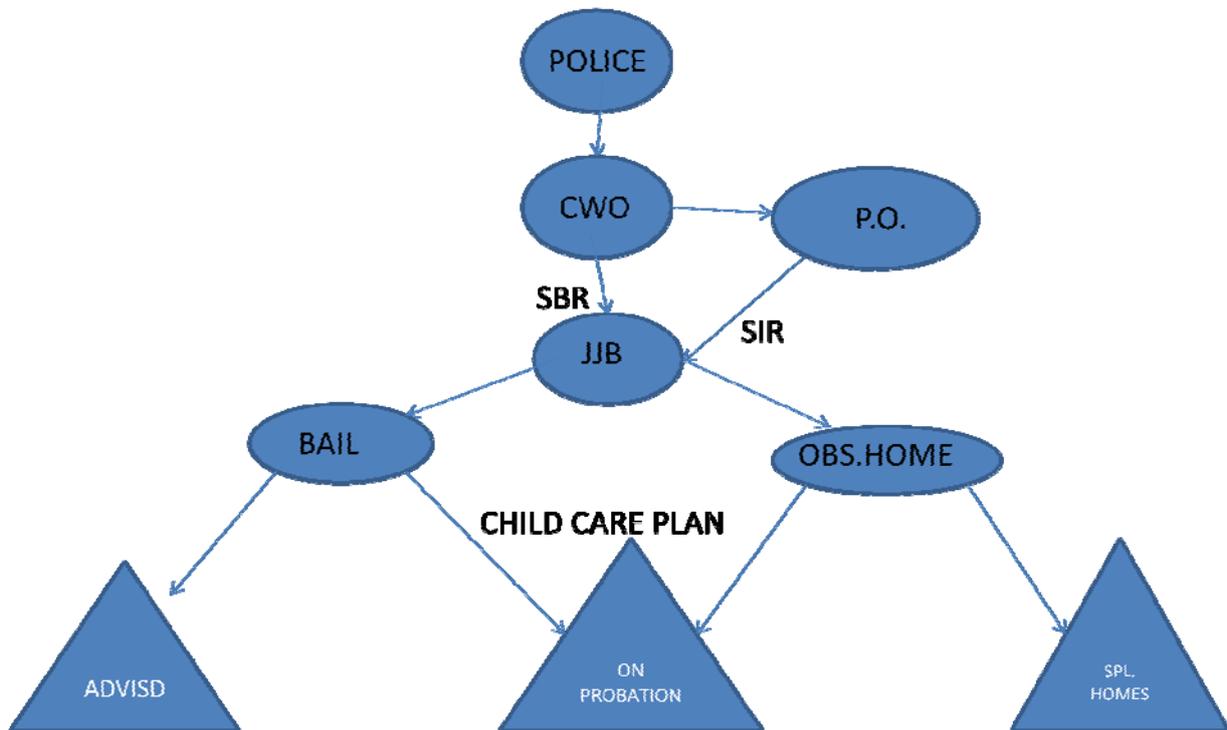


FIGURE 1

4. Implementation of the Act

The onus of implementation of the JJA is on the Ministry of Women and Child development for the entire country. In Delhi, it is the Department of Women and Child Development which is responsible for its implementation or to be more specific the Child Protection Unit. The governing scheme is the 'Scheme for the Prevention and Control of Juvenile Maladjustment' or 'A Programme for Juvenile Justice.' (Ministry of Women and Child Development). In 2009 the government launched the Integrated

Child Protection Scheme (ICPS). One of the main objectives of this scheme is to improve the delivery mechanism of the Juvenile Justice System.

The role of the government can be classified under three basic heads-

- Setting up the necessary infrastructure and providing the required services
- outlay of funds
- Monitoring the system.

4.1 Infrastructure and Service Provision

As mentioned the central scheme for JICL is the 'Programme for Juvenile Justice'. Its functions are:-

- To extend help to State Governments to bear the cost of infrastructure and services development under the Juvenile Justice Act in order to ensure that in no circumstances the child in conflict with law is lodged in a regular prison.
- To ensure minimum quality standards in the juvenile justice services
- To provide adequate services for prevention of social maladjustment and rehabilitation of socially maladjusted juveniles
- Ensure participation of community and other organizations into the care and protection of children in conflict with law who are perhaps more vulnerable than other groups of children. (Ministry of Women and Child Development)

In Delhi it is the Department of Women and Child Development which is responsible for the implementation of the JJA. It is responsible not only for setting up the entire infrastructure right from the notification of JJA to the notification of the JJBs to the

setting up the homes. But it is also responsible for improving the delivery mechanism of the entire system set up.

For enabling an effective rehabilitation mechanism for JICL it is vital to delineate the roles of different ministries including Departments of Health, Education, Social Welfare, Urban Basic Services, Backward Classes & Minorities, Youth Services, Police, Judiciary, Labour. Once these roles are properly defined, the different departments must then work in tandem for improving the standard of institutional and non-institutional services.

In 2009 a centrally sponsored scheme called Integrated Child Protection Scheme (ICPS) was introduced. The central government has provided an outlay of Rs 1,073 crore during the XI Plan period towards implementation of this scheme. (iGovernment Bureau,2009) This scheme aims to bring the different schemes of child protection under one window and improve the delivery of the system. It aims to/at

- i) improve access to and quality of services;
- ii) higher public awareness about the reality of child rights, situation and protection in India;
- iii) articulate responsibilities and enforce accountability for child protection
- iv) establish functional structures at all levels for delivery of statutory and support services to children in difficult circumstances;
- v) Evidence based monitoring and evaluation. (Ministry of Women and Child

Development.2008:8)

One of the major requirements under the scheme is the provision for setting up dedicated service delivery structures; i.e. State Child Protection Society [SCPS]; District Child Protection Society [DCPS] and State Project Support Unit [SPSU] to manage and monitor the implementation of the scheme and ensure convergence with other line departments; wherever required. However these are yet to be set up.

4.2 Funds

A breakdown of the Union Child budget reveals the low priority given to 'Child Protection' in an already low allocation for children. The total share on child protection was .03% of the total union budget in 2006-07 i.e. for every Rs 100 spent by the Central Government only 3 paise was spent for Child Protection. (Ministry of Women and Child Development.2008)

This outlay is not just for the Programme for Juvenile Justice; but includes other schemes for child welfare such as street children etc., scheme for rescue of victims for trafficking; improvement of conditions for working children, short stay homes, *Swadhar*, and the initiative to develop skills, ITI and elimination of child labour. (NCPCR.2008) This means that the actual outlay for Juveniles in Conflict with law is much lesser than the .03% of the total Union Budget. ²(Ministry of Women and Child Development.2008) This has implications for the rehabilitation process of JICL which besides social and other constraints also faces financial constraints.

² See Annexure 3

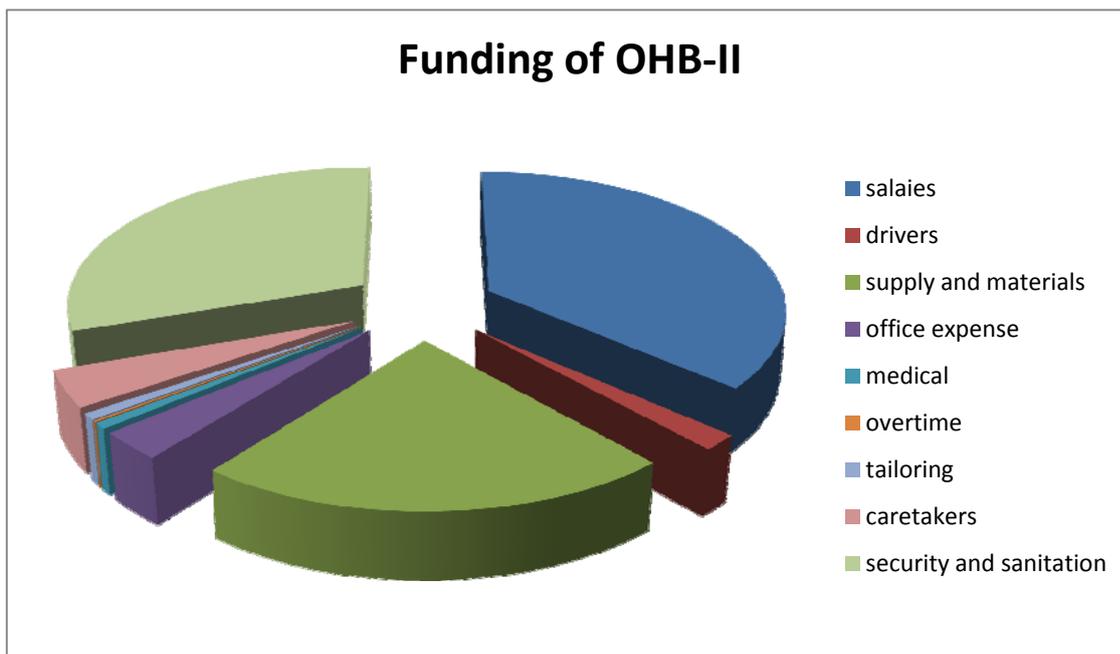
Funds for JICL are released from the Central Government under the Programme for Juvenile Justice. Under this scheme, the Ministry of Women and Child Development provides 50% assistance to State Governments and UT administrations for establishment and maintenance of various levels of institutions for juveniles in conflict with law and children in need of care and protection(NCPCR.2008).Most of the budgetary heads of the government grants has little focus on strengthening family involvement, offering children personalised care and protection and promoting family and community based services(NCPCR.2008).It is ironic that while the JJA stresses on the importance of minimum institutionalization, there is little focus in both the legislation as well as the funding mechanism to strengthen the non-institutional services for the rehabilitation of JICL.

The primary intervention under the scheme is thus, for institutional care. Funds are released according to the yearly budget prepared by the Observation Homes which in turn are required to give an account of their monthly expenditure to the Government. The funds released are more than adequate, so much so that often the Observation Homes end up surrendering a substantial portion of their funds to the Government at the end of the year. For example, OHB-II in 2010 returned more than 7.63 lakhs of unutilized funds for the year 2009. So funding clearly does not seem to be a problem for such institutions.

However on analyzing the funding system for these Observation Homes it can be seen that the funds are rarely released under the heads of formal education, vocational training, counseling and drug de-toxification which form the backbone of rehabilitation

process. (NCPCR.2008). For example, for Observation Home for Boys-II, a breakdown of their budget of 2010 revealed that the only provision which was explicitly mentioned was tailoring. (See figure 2)

The model rules also provides for the creation of a State Juvenile Justice Fund “to implement programmes for the welfare, rehabilitation and restoration of juveniles.” (MR 2007: Rule 95)The Delhi juvenile Justice Fund was created last year. Rs 5 lakhs have been deposited in it. But in spite of pressing infrastructural requirements, it remains unused.



4.3 Monitoring

Improving the accountability of the system has always been one of the major objectives of the Juvenile Justice Programme and now the ICPS. To improve the monitoring

mechanism of the entire system a State Advisory board was also set up by the Department of Women and Child Development. As per the Model Rules:

"Advisory Boards shall inspect the various institutional or non-institutional services in their respective jurisdictions, and the recommendations made by them, shall be acted upon by the Central Government and the State Government." (MR, 2007: Rule 93)

Though a letter to JJB indicates that the Advisory Board was set up by 2003, till 2006 it had not started functioning properly and five non-official members of the board completed a term without exercising their responsibilities even once. (Dubey, 2006) However in the last couple of years the Advisory Board has been holding meetings twice a year to discuss issues concerning the proper implementation of the Act.

In March 2007 the National Commission for Protection of Child Rights (NCPCR) was set up as a statutory body under the Commissions for Protection of Child Rights Act; 2005 (4 of 2006); an Act of Parliament. (NCPCR.2007) Along with several other responsibilities it is also required to review the

- working of Juvenile Justice Homes
- Functioning of the Juvenile Justice Board
- Implementation of the Juvenile Justice Act
- Make recommendations.

To achieve the above objectives a Working Group was constituted on 29th October 2007. (NCPCR.2008) .The following two Sub-committees of the working group were formed for in-depth study:

- Sub Committee on Review of Operations of Observation and Children's Homes
- Sub Committee on the functioning of Juvenile Justice Board

5. Rehabilitation: An Analysis of the delivery mechanism

While the Department of Women and Child Development has successfully set up two JJBs, three Observation Homes and one special home the point of the whole exercise gets defeated if the delivery mechanism itself is flawed. Accordingly this section assesses the effectiveness of the delivery mechanism of JICL.

The first part of this section discusses the protocol for judicial proceedings of JICL and the kinds of dispositional orders passed by the JJB. The next part deals with the two procedural documents that are vital to the rehabilitation process of the juveniles-the SIR and the Child Care Plan. From there on, it looks at the provisions made for formal education, vocational training and counselling for juveniles both who have been released on probation and those who have been put in institutions.³

5.1 Judicial proceedings

The Juvenile Justice board is the main body under the JJA, 2000 responsible for adjudication and disposal of cases concerned with juveniles in conflict with law. Every district as per the JJA act, 2000 is required to set up two or more JJBs. The Board consists of a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, and two social workers of whom at least one is a woman, forming a

³ Refer to Figure 1

bench. (JJA, 2000: Clause 4). Every case brought before the JJB progresses in three basic stages-the first summary inquiry, then investigation and at last disposition.

The first summary inquiry is when the juvenile is placed before the board for the first time and the Board on the basis of the report presented to it by the police, decides whether the juvenile is to be released on bail or sent to an observation home.(Model Rules,2007: Rule 13)

What is alarming about this stage is that there seems to be no machinery in place, neither with the Special Juvenile Police Unit nor with the JJB, to check if the juvenile produced before the JJB has come into conflict with law for the first time or whether it was his tenth or even hundredth time, unless their memory serves otherwise.

Each Police station is required to keep records manually which helps in determining if the juvenile is a first time offender or not. However a high ranking officer at the nodal office of SJPU said that *"In the last couple of years the officers are confused because the legislations seem to talk about least stigmatisation and as such whether records are required to be maintained at all or not."*

Generally, the child welfare officers stationed at every police station are required to send records of the juveniles apprehended to the SJPU unit of that district which in turn sends these records to the nodal SJPU office. But these records aren't computerized nor compiled properly making monitoring impossible. So a proper centralized system of keeping records is missing .In such a situation it is possible to identify the juvenile as a repeater only-

a) If he is apprehended by the same police station and

b) If records are being maintained at the police station

Also often as a principal magistrate of a JJB revealed that *'the juveniles tend to change their names'*. This means even if records are maintained, they are rendered useless as there is no system for checking through fingerprinting. This will have obvious implications for the rehabilitation process. By not taking into consideration that the juvenile is a habitual offender, the JJB is not able to upgrade the rehabilitation process accordingly.

After this, the investigation part of the process ensues wherein the board determines whether the juvenile has committed the offence or not and if s/he has, under what circumstances. This is established through the SBR and the SIR submitted by the Police and the Probation Officer respectively and by directly interacting with the child during the hearings. As per the Model Rules every inquiry by the Board must be completed within 4 months and only under special circumstances can be extended up to 6 months for non-serious crimes. (Model Rules,2007 :Rule 13(6)).For serious crimes, the time period may extend beyond 6 month with reports sent to the Chief Judicial Magistrate and all efforts made to expedite the process. (Model Rules, 2007: Rule 13(8))

However given the high pendency of cases in the JJBs the inquiry phase extends to 6 months almost always in the case of non-serious cases and indefinitely for serious ones. A study conducted by a non -governmental organization, Bal Sakha(2006) revealed that over 6,000 juvenile cases were pending in various Juvenile Justice Boards, of which about half were pending for more than three years and in some cases, still unresolved even after 10 years. (Srivastava, Zachariah and Kaur.2006) .Thus thousands of

such children continue to languish in homes because of the delay in justice. However the situation seems to have improved in recent times with bail being granted more easily and attempts being made to expedite the judicial proceedings.

Last comes the disposition of these cases, wherein any of the orders enumerated before may be passed. But as one commentator noted “though the Rules have incorporated certain principles, and opened spaces for bringing in procedures for diversion and restorative justice approaches, it should have included the framework for programmes such as victim offender reconciliation programmes, family group conferences, community service programmes etc instead of leaving this to the discretion of State Governments.” (Manoharan.2008)

As a result the JJBs rarely resort to community services or any other such effective form of diversion. A break-up of the cases disposed in 2008 reveals:

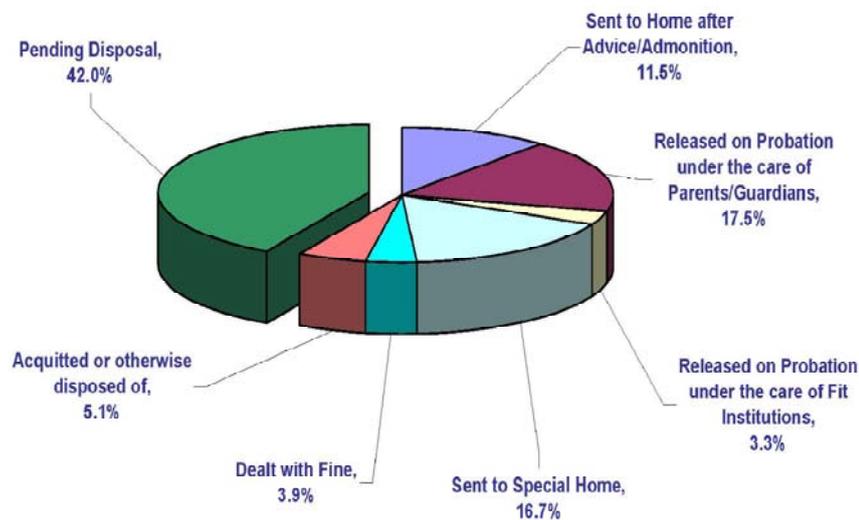


FIGURE 3

Source: NCRB.2008

Community services' is one of the most effective methods of diversion. One such order for community services was passed in Delhi, wherein the JICL in question was required to help the Police. As revealed by a P.O., it helped improve dialogue between the juvenile and the police officers in question, building a better understanding between them. It also helped instill a sense of pride and responsibility in the juvenile. It is a shame that a method that imparts education through service rendered to the society in lieu of other judicial remedies (MR.2007: Rule 2) and which has been so successfully practiced in some countries is rarely used in India.

Moreover in cases where the JJB admonishes and releases the juvenile with directions for counseling there seems to be little or no provision from the side of the JJB to make this possible. So the process of rehabilitation in India seems to pertain to only those who are either released on probation or those who are ordered to be sent to observation and special homes. It is thus in these two areas that the paper will seek to analyse the provisions made.

5.2 Procedural documents

The SIR and Individual child care plan are instrumental to the determination of the kind of rehabilitation process to be followed. Hence before looking into the provisions made for education, training and counseling under the various dispositional orders, it serves to take a moment and examine the formats of and the methods by which the Social Investigation Report and Child Care Plans are made.

5.2.1 Social Investigation Report ⁴

The SIR seeks to look into the possible reasons for why the juvenile would commit a crime and thus is a key factor for determining the kind of dispositional orders passed by the JJB. After the reasons are identified the dispositional order should as Maharukh Adenwala eloquently put it “treat the reasons as a doctor treats an illness.”(Adenwala, 2006:84). Positivist approaches to criminology generally sight the breakdown of communal institutions (family, school, place of employment, social groups) for commission of offences (Wikipedia). The SIR too in the same spirit looks into the antecedents of the child-his/her family background, economic status, habits and school/work records.

This is to be established through personal interviews and through interviews with family, social agencies and other sources according to the Model Rules, 2007.

Generally, after the first summary inquiry the JJB directs the Probation Officers to submit the SIR within the next 15 days (for serious offences) though this period is negotiable. As is customary for making the SIR the P.O. visits the juvenile’s place of residence and interviews the parents. Beyond this there seems to be no procedure for interviewing the peers, teachers or employers. A member of the Juvenile Justice Board said “ *All that I refer to the SIR is for any habits that the child might have and the neighbour’s report. The rest I can easily find out by asking the juvenile directly during the JJB proceedings*”. So where is the holistic report of the juvenile which is what the SIR boasts of being?

⁴ See Annexure 1 for format of SIR as per Model Rules,2007

What is even more alarming is that the juvenile in question might not even have committed the offence. But because they have been led to believe that the easiest way to get out of the situation and avoid lengthy proceedings would be to admit to it, they do so. The probability of this happening obviously gets accentuated when the P.Os do not check up on the accounts given by the juvenile and his family with anyone else. Not only does the method for preparing the SIR leave much to be desired, but even while filling this basic information gathered from the juvenile the probation officers tend to be very vague and often leave parts of the SIR blank. All this has resulted in the redundancy of the role of the SIR.

5.2.2 Individual Child Care Plan⁵

To chart out a plan for the holistic development of the juvenile every dispositional order is required to contain an Individual Care Plan prepared by the Probation Officer. Rule 2. (h) of the Model Rules defines Individual Care Plan as:

“a comprehensive development plan for a juvenile or child based on age specific and gender specific needs and the case history of the juvenile or child, prepared in consultation with the juvenile or child, in order to restore the juvenile’s or child’s self-esteem, dignity and self-worth and nurture him into a responsible citizen and accordingly the plan shall address the following needs of a juvenile or a child:

(i) Health needs;

⁵ See Annexure 2 for format of Individual Child Care Plan as per Model Rules,2007

- (ii) Emotional and psychological needs;*
- (iii) Educational and training needs;*
- (iv) Leisure, creativity and play;*
- (v) Attachments and relationships;*
- (vi) Protection from all kinds of abuse, neglect and maltreatment;*
- (vii) Social mainstreaming; and*
- (viii) Follow-up post release and restoration."*

The standard procedure for making Individual Child Care Plan as was evident from interviewing probation officers is that it is made through 4-5 counseling sessions with the juvenile every 15 days. During these sessions the Probation Officer finds out about the child's interests, family background, personal relationships, schooling, any vocational training that the child may have had and any sort of employment held by the child.

The Individual child Care Plan as per the format given in the Model Rules, 2007 is divided into four parts-

- Rehabilitative needs of the juvenile, i.e. the personal details of the juvenile along with details of his case history; basically his/her emotional and psychological needs, educational and vocational needs, interests and how the social mainstreaming of the juvenile is to be made possible.
- His/her progress in the rehabilitation process, i.e. it deals with the fortnightly progress reports of the child; how much progress has s/he made in any

educational/training needs, monthly earning if s/he is employed, savings and general conduct of the juvenile.

- pre-release report, i.e. the pre-release preparations to be made
- Post-release report, i.e. his status-quo at the time of release and follow-ups after two months and six months.

What happens in reality though is a far outcry from these basic procedural requirements

First to assess the needs of the juvenile, his/her antecedents need to be properly looked into requiring feedbacks from not just the juvenile but also his/her parents, teachers, peers, community and employer. For making the Care Plan it is only the juvenile who is consulted and the parents occasionally, if they choose to show up for a session that is. For assessing emotional and psychological needs no trained counselors, child psychologists or psychiatrists are consulted. No IQ or aptitude tests are conducted nor are previous school records checked to evaluate and give direction to serve the educational and training needs of the child. The same problem as in the SIR ensues; the Probation officers in most cases while assessing the needs are very vague. As a member of the JJB Bench said "*they will write 'bad' in front of the economic status of the juvenile or 'yes' in front of vocational/educational training needed.*" No in depth analysis is done which debilitates the entire rehabilitation process. If the basic rehabilitative needs of the juvenile are not identified properly, how is one expected to even determine how the juvenile is to be rehabilitated?

For evaluating the progress of the child again, only the juvenile is consulted. There is no mechanism in place wherein the probation officer interacts with the peers, teachers, vocational trainers and employers to corroborate the progress of the child. The third and fourth parts of the Care Plan are even more farcical because there seems to be no tie-ups between the JJB and main stream schools /vocational training centres or employment programs. So the social reintegration of these children does not really happen, at least not through the JJB. The JJB on occasion may try to achieve this through NGOs. However as these channels are not well defined nor are they well established. So 'social reintegration' has been successful only for a lucky few.

Given the absence of opportunities that can be presented to the juveniles through the JJBs, a probation officer at one of the JJBs revealed that they were not even required to prepare a Child Care Plan except in the cases of drug de-addiction and the SIR served both as an investigative report and a make-shift care plan.

5.3 Provisions for juveniles released on probation

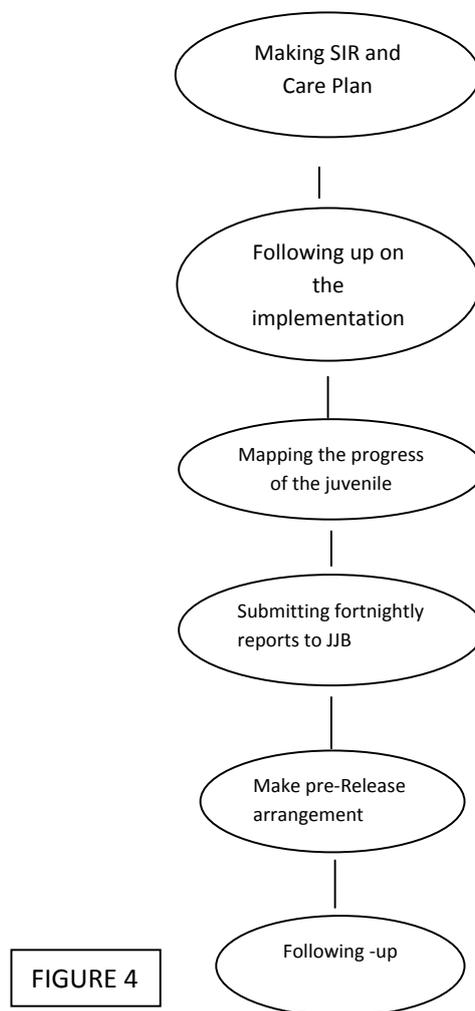
The Beijing Rules state:

"Progressive criminology advocates the use of non-institutional over institutional treatment. Little or no difference has been found in terms of the success of institutionalization as compared to non-institutionalization. The many adverse influences on an individual that seem unavoidable within any institutional setting evidently cannot be outbalanced by treatment efforts. This is especially the case for juveniles, who are

vulnerable to negative influences. Moreover, the negative effects, not only of loss of liberty but also of separation from the usual social environment, are certainly more acute for juveniles than for adults because of their early stage of development." (Beijing Rules, 1985: Commentary on clause 19)

In the same vein the JJA, 2000 has laid down various non-institutional dispositional orders that may be passed by the JJB as alternatives to institutionalisation. In keeping with this principle, most juveniles are released on probation given that other forms of diversion are missing. Statistics indicate that 20.8% of the juveniles were released on probation in 2008, a figure, only below the number of cases pending. (NCRB.2008)

The role of the probation officer and the JJB thus, becomes inimitable to the entire rehabilitation process of juveniles in conflict with law. The role of the P.O. could be broken down into following steps-making of the SIR and the child care plan and hence determination of the kind of dispositional order to be passed; following up on the implementation of the Care Plan and participation in education, vocational and rehabilitation programmes; mapping of the juvenile's progress through individual interviews with him/her and frequent visits to the juvenile's residence, school, training centres or place of employment for those under supervision; Submitting of fortnightly reports to the JJB by the P.O. for reviewing, making necessary pre-release arrangements and establishing linkages with voluntary workers and organizations to facilitate his/her social reintegration; Following up on the juveniles who have been let out of the system and guide and counsel them as much as possible. The process can be elucidated as



While the mechanisms for making the SIR and Individual Child Care Plan are already flawed, the picture for the rehabilitation of these juveniles gets only bleaker from thereon. The JJB and the P.Os at their best seem to act as advisory bodies for the juveniles and have no machinery to open up 'avenues for health, education, relationships, livelihoods, leisure, creativity and play' (MR, 2007: Rule 3) to these juveniles. The signification of this is that the rehabilitation process for juveniles in

conflict with law has serious socio-economic implications. Only the ones who have the means to follow up on the 'Care Plan' of the JJB can do so.

Formal education seems to be last on the list of priorities for these children. Most of them have had little prior formal education (See Table 1). There are many who have dropped out of school and have been out of school for many years. The reasons for this are the same that plague the large majority of children in India who are out of school; only magnified- general disinterest in any form of formal education, low level of parental involvement, the need to support their families and peer pressure.

TABLE 1

Year	Illiterate	Primary	Above Primary but below matric	Above Martric
2008(NCRB,2008)	222	190	74	37
2007(NCRB,2007)	490	270	170	40
2006(NCRB,2006)	739	550	188	36

What these kids need, keeping in mind their general disinterest and the dysfunctional environments they come from are alternate systems of education. But given that the JJB does not even have tie-ups with mainstream private or MCD schools; the very idea that it would be equipped to initiate these children into innovative methods of schooling is ludicrous. Hence the JJB's function as a facilitator reduces to a mere rhetoric when it comes to providing for the formal education of these juveniles with the JJB only advising the juveniles who are already going to school to continue doing so.

Instead the JJB directs most of these juveniles especially the ones above 14 years, to take up vocational training given that they cannot afford 'luxuries' like education and have to sustain themselves and their families. The Child Care Plan is supposed to be prepared in consultation with the child keeping his/her interests in purview. But the JJB has no tie-ups with vocational training centres, Institute of Technical Institution or Jan Shikshan Sansthans. So when talking about the interests of the child we are talking only about the ones that the child can afford to pursue. 'Affordability' is the key word here since most of these children come from economically weak families as shown by

Statistics:

TABLE 2

Year	Annual Income (Up to Rs.25;000)	Annual Income (Rs. 25;001 To Rs.50;000)	Middle Income (Rs. 50;001 To Rs. 1;00;000)	Middle Income (Rs. 1;00;001 To Rs. 2;00;000)	Upper Middle Income (Rs. 2;00;001 To Rs. 3;00;000)	Upper Income (Above Rs. 3;00;000)
2008(NCRB,2008)	310	158	41	7	5	2
2007(NCRB,2007)	689	210	53	14	1	0
2006(NCRB,2006)	1125	353	35	0	0	0

0

Most of them thus, end up pursuing the kind of vocational training they can learn for free like auto-repairing or other such low-end vocations. So the whole system just

becomes one vicious circle as these vocations can do little to improve the economic status of these juveniles.

Since the JJB can do little to improve the environments from which these children come (sponsoring these children being a rare phenomena), the main reason attributed for the commission of offenses, one hopes that the correctional measures can at least be internalized through counseling or some sort of psychological treatment. However there are no trained counselors from the JJB's side to administer such therapeutic treatment to these children.

The JJBs have part time counselors coming in instead. JJB-I had one counselor coming in from an NGO(Safma) while JJB-II had two counselors coming in from an NGO(Haq).But these counselors take up only the cases which are recommended by the JJB. Though it is necessary to provide counseling to all juveniles it makes no sense to make them handle them more cases since they are not full time counselors and could never give as much time as a full time counselor could.

The methods employed for counseling these kids given the workload of these counselors are generic and, activity-based or any innovative methods of counseling are rarely practiced. There is no system of substantiating the psychological analysis of these juveniles with accounts of peers, employers or teachers. Parents are counseled and consulted only if they bother to show up which they might not even after repeated requests to do so. Visits to the juvenile's residence are very rare. Moreover, JJB-II has no room specially assigned for counseling.

However some efforts at improving the situation are being made with the appointment of a full time counselor recently from the side of the state at JJB-II. Given that this is a recent development it will be some time before one can assess the benefits and check to see if this has helped in bringing more juveniles under the net of counseling.

Moreover, there are no pre-release or post-release arrangements made. Nor is there any machinery in place to follow-up once the JICL are let out of the system. As a result recidivism is common.

5.4 Provisions for JICL in Institutions

Every piece of legislation on juvenile justice has reiterated the need for minimum institutionalisation. The Model Rules clearly state:

' Institutionalization of a child or juvenile in conflict with law shall be a step of the last resort after reasonable inquiry and that too for the minimum possible duration.'(MR 2007: Rule 3)

Being separated from their family and natural surroundings most juveniles are contemptuous towards the process. This is evident from the fact that many juveniles try to run away at the first opportunity they get. In the words of a juvenile himself "*ye kabhi ghar jaise nahi ho sakta hai; kyunki yahan pe mummy papa toh nahi hai*"(This can never be like home because we are separated from our family.)

The point of institutionalisation has been as the Beijing Rules says:

'To provide care; protection; education and vocational skills; with a view to assisting them to assume socially constructive and productive roles in society.'

But institutionalisation has been reduced to a punitive measure which is against the very spirit of JJA for which rehabilitation and not retribution has always been the objective. This is apparent from the provisions of education, vocational training and psychological intervention that have been provided at these homes.

In an NCPCR report (NCPCR.2008) it was stated:

"In most cases, only children who can enter into age appropriate classes on placement within the Homes are typically enrolled in formal schooling. The remainder are provided with adhoc educational inputs and/or engaged in activities which are termed as vocational training but often involve surreptitious forms of engagement of children in 'work' within the institution (for example; kitchen duties; washing; cooking; mending; cleaning; etc). Alternatively; they receive instructions in activities which have neither linkages to vocational skills and aptitudes nor potential access to employment opportunities nor support the development of sectoral skills."

In Delhi there are three Observation Homes (two for boys and one for girls), one special Home and one place of safety. Observation Homes are meant for the temporary reception of juveniles on pendency while juveniles are sent to special homes as a dispositional order for their 'ultimate rehabilitation'. Field visits were made to the two Observation Homes -Observation Home for Boys-I (Prayas; Delhi Gate) and Observation Home for Boys-II(Sewa Kutir Complex; G.T.B colony) to assess the provisions made in these homes.

5.1 Case Study: Observation Home for Boys-I

OHB-1, in Delhi Gate is run by an NGO called PRAYAS. It was initially run by the Delhi Government. But due to mismanagement, its management was handed over to PRAYAS in 1998 by signing an MOU with it. The funds are allocated to it by the Government as per the JJ scheme for which PRAYAS is expected to submit its utilisation certificate and audit statement to the government for approval. (NCPCR.2008)

The fact that this was an observation home and not just a normal home first dawned on me when I saw a collapsible gate with a huge iron lock on it barring my entry into the home. After telling the guard that I had an appointment with the Superintendent I was let in. The Superintendent after receiving me cordially in his office, 'regaled' me with gory stories about the various offences that the juveniles had committed. Making sure that I had had my fill he asked if I would like to go in or not.

There was another huge iron gate with a bigger iron lock this time, which was unlocked so that I could go into the main compound where these kids lived. The compound inside however, was surprisingly green with open spaces here and there. There was a badminton court where the Superintendent said the juveniles played badminton every evening. There was also a fairly big room where the juveniles had yoga classes early every morning.

At the time I went, the observation Home housed about 23 juveniles. Their ages seemed to range between 12 to 16 years. As revealed by the Superintendent they had fixed schedules that they had to adhere to. Inside most of the juveniles seemed to be engaged in some activity or the other. It was hard to believe that these juveniles, some

of them below 14 years, were there on charges of serious offences like rape and murder. They looked, smiled and talked like average kids. There were two juveniles showing the gawkiness typical to adolescents, sitting on durries, serenely painting fishes, barely 16 years of age who were there on murder charges.

I started asking the superintendent about the provisions for formal education, vocational training and counseling made for these kids. An examination of the arrangements revealed that the facilities for the juveniles were sadly lacking especially for the latter two.

Formal Education:

ISSUE	STATUS
Class timings	10-4:30(lunch from 1:00-2:00)
Number of teachers	1
Number of juveniles studying(at time of visit)	5
Classroom	1;fairly big and airy
Allotment of grades	By interviewing the juvenile
Books and stationaries	Provided by government
Examination	Through NIOS

It was heartening to see that formal education had been taken up full time so that school going children and children below 14 years were not denied an education while they are at the home. However only five

juveniles were being given formal education, though all the juveniles were below 16 years. There were some juveniles who seemed younger than 14 years, being given vocational training rather than being educated formally. This could be because most of

them are disinterested in receiving formal education, having never gone to school or being out of school for a while.

For these children, alternate and innovative forms of education need to be introduced. There is a dire need for 'a range of educational opportunities' and 'learning and input from special Educators' (MR.2007:Rule 47) as the Model Rules lay down to get more children under the net of formal education. Moreover these juveniles come from different educational backgrounds. Hence conducting standardised tests to ascertain which grade they should be put in makes more sense than simply interviewing the juveniles.

Vocational training:

The juveniles were required to take up vocational training as per their interests among the different vocations offered.

The Model Rules under the 'Standards of Care of Institution' lays down that:

"Every institution shall provide gainful vocational training to juveniles or children." (MR, 2007: Rule 48)

There are two elements to examine here-'as per their interest' and 'gainful' vocational training. Most of the vocations being offered were archaic and certainly not 'gainful' like candle making, book binding and arts and crafts. There was also detergent making, embroidery and cutting and tailoring. But a good thing was that along with informal education these children were also given one hour of basic education. (Alphabets;

multiplication tables; addition; subtraction etc). Another commendable initiative was that there were three computers which had been provided solely for the kids.

Psychological intervention:

Most of these juveniles come from dysfunctional environment and are in dire need of some sort of psychological treatment. The Model Rules with the same realisation, suggests that there should be 2 full time counsellors (in a home of capacity of 100 juveniles) along with part time psychiatrists, psychologists and occupational therapists (MR.2007:Rule 68). However both the posts of full time counsellors were empty and there was only one psychiatrist coming in fortnightly. This means that not all the kids could be given the much required individual mental intervention. Moreover it seems that there is no special counselling room and the children were given counselling in the Superintendent's office itself.

5.2 Case Study: Observation Home for Boys-II

As per the Model Rules visits to Observation Homes are allowed only with permission from the competent authority. (MR, 2007: Rule 94(4)) This meant that the first time I dropped by at OHB-II the Superintendent refused to even talk to me. I applied for permission at the Department of Women and Child development. After five visits spanning over a period of three and a half weeks I was finally allowed to visit the home.

As opposed to Prays observation home, the Superintendent's office and building where the boys lived were in two separate compounds. Three huge iron gates were unlocked before I entered the boys' compound. I was also searched by a guard and made to keep my bag outside before I could finally enter. The building having previously being used as a Poor House was in dismal condition. The walls were defaced and the atmosphere was very jail-like. The dorms were dingy and the boys made to sleep on mattresses on the floor.

OHB-II housed mostly juveniles above 14 years. There were about 37 juveniles when I went. The boys did not seem to have a fixed schedule and through talking with the Superintendent and three child welfare officers, it was evident that discipline issues were common. There seemed to be a lack of sufficient number of care takers which made individual monitoring of these juveniles difficult. The provisions for rehabilitation were even more deficient than the ones at PRAYAS Observation Home.

Formal Education:

Issue	Status
Provider	NGO
Class timings	2:00-4:00
Number of teachers	3
Number of juveniles studying(at time of visit)	About 20% of the total strength
Classroom	None; taught in dorms

Allotment of grades	Through tests conducted by teachers
Books and stationaries	By NGO (NIOS curriculum)
Examination	NIOS
Classes	1 st to 8 th

According to the teacher about 80% of the juveniles learning have had no prior education. So they are enrolled in class 1. The boys were taught in the dorms itself. As in Prayas, alternate forms of education were missing. Moreover no MOU had been signed between the NGO and the home.

Vocational training:

The only vocation that the juveniles could seriously take up was cutting and tailoring. There was a full time instructor and a proper workshop. For every piece of clothing stitched the boy had a certain amount of money put in his account which he could access once he was released. The other vocation was kitchen where the juveniles were made to help out in the kitchen and learned to cook some basic stuff like dal, rice etc. One innovative vocation that has been introduced recently was mobile repairing. However the instructor came only once a week. This meant that juveniles who did not take up tailoring idled the whole day away, often picking up fights with each other.

To counter this problem the institution needs to develop networking with Institute of Technical Instruction, JanShikshan Sansthan, Government and Private Organization or

Enterprises, Agencies or nongovernmental organisations with expertise or placement agencies. (MR, 2007: Rule 48)

Psychological intervention:

Here also, the posts of full time counsellors were empty and there wasn't any counselling room. A psychologist came in thrice a week from an NGO (UVCT) and in a day counselled two boys for about 30-60 minutes. Counselling was being provided only for cases referred by JJB for which reports were submitted as per the JJBs orders. Hence the provision as laid down by the Model Rules, 2007 i.e.

"(1) A mental health record of every juvenile or child shall be maintained by the concerned institutions.

(2) Both mileu based interventions that is creating an enabling environment for children and

individual therapy are a must for every child and shall be provided in all institutions."

(MR, 2007: Rule 46) were not being provided for.

Monitoring:

A comparison of the various monitoring measures laid down by the Model Rules, 2007 and the actual scenario shows how much the monitoring system was lacking:

S.no	Measure	As per Model Rules	Actual scenario
1.	Maintaining Case	The case file of each juvenile and child shall	Case Files were

	Files	<p>be maintained in the institution containing the following information:</p> <p>(a) report of the person or agency who produced the juvenile before the Board;</p> <p>(b) officer-in-charge's, probation officer's or child welfare officer's, counsellor's and caseworkers reports and other staff members</p> <p>(c) report of the initial interaction with the juvenile, information from family members, relatives, community, friends and miscellaneous information,</p> <p>(d) regular health status reports from Medical Officer, drug de-addiction progress reports, progress reports <i>vis-a-vis</i> psychological counselling or any other mental health intervention, where applicable,</p> <p>(e) Intelligence Quotient (I.Q) testing, aptitude testing, educational or vocational tests and instruction regarding training and treatment programme and about special precautions to be taken,</p> <p>(f) social history and case history</p> <p>(g) quarterly progress report;</p> <p>(h) individual care plan</p> <p>(i) final discharge;</p> <p>(j) follow-up reports (MR.2007:Rule 54)</p>	<p>maintained containing:</p> <p>(a)Case History</p> <p>(b)Care Plan</p> <p>(c)Medical History</p>
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2	Individual Care Plan	<p>An individual care plan for every juvenile or child in institutional care shall be</p> <p>Developed by the case worker with the ultimate aim of the child being rehabilitated and re-integrated based on their case history, circumstances and individual. It should include a plan for the juvenile's or child's rehabilitation, reintegration and follow-up. Moreover all plans should be reviewed by a Management Committee (MR.2007)</p>	<p>Individual care plans are made :</p> <p>(a)by Child Welfare Officers sometimes in consultation with the counsellor</p> <p>(b)No plan for the juvenile's reintegration and follow up</p> <p>(c)No reviewal</p>
3	Mental Health Care Plan	<p>A mental health care plan shall be developed for every juvenile or child by the child welfare officers in consultation with mental health experts associated with the institution and integrated into the individual care plan of the concerned juvenile or child.(MR,2007: Rule 46(7))</p>	None maintained
4	Management Committee	<p>A Management Committee shall meet every month to consider and review</p> <p>(a)minimum standards of custodial care or care in the institution; housing and for looking into area of activity and type of supervision or interventions required;</p> <p>(b) individual problems of juveniles and children along with quarterly review of individual care plans;</p>	No management Committee had been set up

		<p>(c) vocational training and opportunities for employment and also education and life skills development programmes;</p> <p>(d) social adjustment; recreation; group work activities; guidance and counselling;</p> <p>(e) planning post-release or post-restoration rehabilitation programme and follow up for a period of two years in collaboration with aftercare services (MR,2007:Rule 55)</p>	
5	Children's Committee	<p>Officer-in-Charge of every institution for juveniles or children shall facilitate the setting up of Children's Committees for different different age groups of children which shall be constituted solely by children. Such Children's Committee in consultation with the Management Committee shall be encouraged to participate in following activities:</p> <p>(a) improvement of the condition of the institution and reviewing the standards of care being followed</p> <p>(b) developing educational, vocational and recreation plans and outlets for creative expression of their views through newsletters or paintings or music or theatre;</p> <p>(c) Looking into problems faced by peers</p>	A Children's Committee was yet to be set up

		(MR,2007:Rule 56)	
6	For Juveniles to be released	<p>(a) The Officer-in-charge shall maintain a roster of the cases of juveniles in conflict with law to be released on the expiry of the period of stay as ordered by the Board.</p> <p>(b) Each case shall be placed before the Management Committee for ensuring proper release and social mainstreaming of the juvenile post-release.</p> <p>(c)The release shall be as per the pre-release and post-release plan prepared under the individual care plan and reviewed from time to time by the management committee set up and shall include preparation for post-release follow-up.(MR,2007:Rule 17)</p>	<p>(1)No placement of case before Management Committee</p> <p>(2) No pre release or post release plan prepared and no system of post release follow up.</p>
7.	Inspection Committee	The State Government shall constitute State, District or city level inspection. The inspection committees through inspection visits carried out at least once in three months, shall visit and oversee the conditions in the institutions and appropriateness of the processes for safety; look into the functioning of the Management Committee and Children's Committee set up and give appropriate directions.(MR,2007:Rule 63)	An Inspection Committee has only recently been set up and till date had conducted no visits

6. Recommendations

This section of the paper seeks to make recommendations by addressing the flaws in the system as observed.

6.1 Legislations

Some of the measures which are imperative for the effective rehabilitation of JICL have been merely mentioned in the Model rule. However for their effective implementation the framework for these measures need to be properly elaborated upon. Accordingly the scope of the Model Rules needs to be broadened to explicitly state the conditions for the following -

- effective methods of diversion like community services; victim offender reconciliation programmes; family group conferences(Manoharan.2008)
- channels for linkages between the different departments-Health, Education, Labour, Social welfare to make the process of rehabilitation more holistic
- Norms for NGO-Government Partnerships so that effective linkages can be developed for specialized training and technical assistance.
- While explicit norms have been laid down for the standard of rehabilitative measures provided in institutions something of the same kind needs to be done for the rehabilitative measures that can be adopted for the JICL who have not been institutionalized like the ones on probation.

6.2 Judicial Proceedings

The high pendency of the cases seems to be a perennial problem that all the JJBs seem to suffer from. Though the scenario has somewhat improved in the past couple of years the problem is still severe. This has obvious implication for the rehabilitation process of the juvenile which will be delayed as long as the case is pending increasing his/her vulnerability. "As time passes, the juvenile will find it increasingly difficult; if not impossible; to relate the procedure and disposition to the offence; both intellectually and psychologically."(Beijing Rules, 1985: Comment on Rule 19)

An effective mechanism to counter this problem is to evolve a gradation system for the cases registered and use alternatives to the JJBs for dealing with the less serious offences.

In Bihar, to expedite the judicial proceedings Bal Samvad Adalats (Interactive Children's Court) were started. It was observed that in Bihar a majority of the juveniles had committed minor offences. Such cases were short-listed from the serious ones and the parents contacted. The Adalats then sought to provide legal awareness to them and also advice on the rehabilitation of children. One to one counseling was also provided to children and their parents. Anxieties; dilemmas and worries of the families were duly addressed.(Srivastava, Zachchariah and Kaur.2006)

In Sri Lanka under the Mediation Boards Act, certain offences of less serious nature are first referred to the Mediation Board wherein the concerned parties are made to sit

together so that they can try and settle the issue amicably rather than resorting to Judicial proceedings. (Unicef.2007)

6.3 Juvenile Justice Functionaries

6.3.1. Probation Officers

There is a severe shortage of Probation officers. There is a need to create a dedicated juvenile justice probation cadre nationally with appropriate training; protocols; policy guidelines and regulation under specific juvenile probation. (NCPCR.2009)The salary of this P.Os must also be increased. The low salaries coupled with high qualification requirements have been major factors responsible for the dearth of P.Os. Moreover more grade-II P.Os (social workers acting as Pos) need to be employed though the qualifying requirements for such P.Os have to be still properly established.

6.3.2. Training of JJ functionaries

There is a need for the proper training and sensitisation of JJ functionaries which can be done as the Model Rules suggests through NIPCCD (MR, 2007: Rule 39(3)) and also through NGOs. For example, the NGO Haq: Centre for Child Rights organised a two day training programme for POs which saw a marked improvement in their performance.

6.3.3 Professionalization of Child Protection Personnel

For the professionalization of Child Protection Personnel, a report by NCPCR made the following suggestions:

“(i) establishment of peer bodies and certification and in-service continuing education processes

(ii) Merit based scholarships

(iii) high profile clerkships and internships and awards within tertiary schools of law; social work; education; medicine; psychology etc for students showing aptitude and interest in child protection as a career path.”(NCPCR.2009)

However for such measures the necessary infrastructure needs to be created first.

6.4 Institutional Services

The provisions for formal education, vocational training and counseling seem to be sadly lacking in most of the institutions reducing the institutionalization of JICL to a mere punitive measure.

6.4.1. Formal education

For improving the status of formal education a report by NCPCR urges Observation Homes to link with the Sarva Shiksha Abhiyan to “operationalise remedial education and support mainstreaming into formal education through systematic school readiness assessment; preparedness and enrolment for all children.”(NCPCR.2009) with the implementation of the RTE Act there is much emphasis on SSA and education for all below 14 years. Accordingly JICL too should be brought under the net of RTE.

The educational needs of the juveniles should be assessed on the basis of tests conducted and grades allotted accordingly.

For the juveniles who are above 14 years and disinterested in formal education, attempts must be made to at least impart some basic education to them (alphabets, numbers etc). Alternative and innovative methods of teaching could also be used which may be provided through NGOs.

6.4.2. Vocational training

To improve both the range of vocations and the quality of training the following measures could be adopted:

- Like formal education vocational training too could be provided through NIOS for both short-term courses and long-term courses. Moreover certificates should be given on successful completion of courses.
- There is a need to establish linkages with ITI, Jan Shikshan Sansthan and NGOs. (MR.2007)
- Corporate Social Responsibility is important. The corporate having the resources could also help for which they could be given incentives. They could help provide training in newer and gainful vocations like mobile repairing.

6.4.3. Psychological Intervention

Psychological intervention is a must for the proper rehabilitation of juveniles. The Model Rules suggests two counselors (MR, 2007:68(9)) and a counseling room. (MR 2007: Rule 40(3)) for every home of capacity of 100. However most of the institutions do not even have one full time counselor let alone two. Nor do they seem to have counseling rooms. While there are part time psychologists or psychiatrists coming in, some of who come in fortnightly, they can only handle a handful of cases. Thus there is an urgent

need for filling in the posts of full time counselors and assigning a proper room for counseling in these institutions.

A Mental health Care plan should be maintained for all juveniles and this should be integrated with the Child Care Plan. (MR 2007:46(7))

NGOs could also have a big role to play as is evident from several success stories across the country. In Pune for example at a Children's Home for Boys a child guidance centre was been set up by an NGO which helped improve the mental status of these children significantly.

Similarly considering that JICL are the most vulnerable when they just enter a home and require greater attention and counseling at that time so that they can participate in the Care Plan; a reception committee was created by two NGOs within the Children's Home for Girls and Boys at Bangalore. This committee offered children personalised educational input together with group recreation, craft classes etc. to keep them engaged while offering psychological support and counseling to cope with the demands of institutional care. (NCPCR.2008)

6.5 Non Institutional Services

In keeping with the principle of minimum institutionalization there should be emphasis on basically two areas:

6.5.1. Finding alternatives to institutionalization

While putting JICL on probation is a measure that seems to be commonly used, there is a need for having other alternatives to institutionalization like Community Services.

Such unconventional forms of education help in instilling a sense of self-worth and responsibility in the juvenile.

While such dispositional orders have been rarely passed in Delhi in Bangalore an NGO called ECHO has successfully initiated such a rehabilitative measure for JICL.⁶ The programme called Traffic Police Assistant Programme was started by ECHO in collaboration with the Dept. of Police. Under this children between 16-20 years are given intensive orientation and training in traffic rules and regulations, basic information of the city, first aid and community dynamics 'Former law breakers become law enforcers'.(ECHO)

6.5.2. Improving the delivery of Non institutional Services

The aim of the JJA has always been to rehabilitate maximum juveniles through non-institutional channels. A strong rehabilitative mechanism is thus, imperative when it comes to the non-institutional system. However it is ironic that there is no rehabilitative mechanism not from the side of the JJB nor from the side of the government to address the juveniles, who are not institutionalised. Most of the JICL come from economically weak backgrounds and as such cannot afford to pursue activities prescribed for their rehabilitation. Under the circumstances the first step would be to identify the 'at risk' areas(where such offences are more prevalent) by monitoring trends and set up government aided institutions that can assist the JICL in their rehabilitation in these places. Such institutions should include-

⁶ Though this measure was actually adopted for institutionalized JICL

- Mainstream as well as alternative systems of schooling. One such alternative system of schooling is 'Ankur' which was used for a JICL (through the NGO-Haq; Centre for Child Rights) which seeks to provide education through games and discussions.
- Vocational training centres which considering would be providing for a large number of juveniles over a considerable period of time as opposed to vocations in institutions should offer large variety of certificated vocational courses
- Psychological intervention centres and drug de-toxification centres. Currently the JICL are not only under financial constraints but are also at the discretion of the institutions; for psychological help or help for drug de-addiction, which may or may not take up their case. To circumvent this problem it would be best to set up government aided institutions.
- Employment programme especially for juveniles from economically weak backgrounds
- After care homes for Juveniles who have been institutionalized or have come in conflict with law frequently and for some reason cannot be placed within the family can be taken in such homes. Spandan and Balagrama, run by the NGO ECHO in Bangalore(ECHO) are examples of some such homes that are being run successfully.

If NGOs are responsible for the management of such institutions an MOU must be signed between the government and the NGO which would ensure the rehabilitation of JICL through well defined and well established channels.

Additionally to ensure the rehabilitation of JICL within the family there should be a proper sponsorship programme (JJA, 2000: Rule 43) in place. Possible case studies which could be replicated are the Sponsorship Scheme, 2006 of the Dept. of WCD; Govt. of Karnataka and the Bal Sangopan Programme in Maharashtra. (NCPCR, 2008) Though these sponsorship programme were provided through institutions for the deinstitutionalization of JICL such a programme could also be administered through the JJB for those on probation and generally for those who have not been institutionalized and come from economically weak background.

6.6. Monitoring

6.6.1. Records

There is a dire need for a centralized and computerized system of keeping records by the SJPU for monitoring the overall trends and to check for recidivism.

There should be a system for fingerprinting juveniles and maintaining records so that first time offenders could be differentiated from habitual offenders and the rehabilitation process undertaken accordingly. Thus even if juveniles change their name they would be instantly recognized if they are regular offenders. While this might raise issues of stigmatization it must be realized that fingerprinting has become fairly common and is no longer just restricted to the sphere of crime.

6.6.2. Institutions

Individual Care Plans must be made as soon as possible for all juveniles even if they are to be released shortly. Care Plan help to set the tone for the rehabilitation of a JICL which is a process that should continue even after they are released. Case Files contain reports of Officers in Charge, counselors, case workers, probation offices, case histories, mental health care plans and Care Plans must be maintained for all juveniles.

Management Committees (MR 2007:Rule 55) need to be set up for reviewing the types of intervention(mental, educational, vocations) required within the institution and for the quarterly review of individual care plans. A children's committee (MR,2007:Rule 56) should also be set up for reviewing the standards of care in the institution.

An inspection Committee(MR,2007:Rule 63) must be set up, which through surprise visits should strive to assess the condition of the Homes and check to see if they are adhering to the standards of care as laid down by the Model Rules;2007. It should also inspect the various provisions that have been made in these homes for the rehabilitation of JICL and accordingly make recommendations for improvements.

For juveniles to be released from institutions there should be a proper pre-release and post release plan included in the Care Plan. Moreover there should be proper follow up mechanism for juveniles released from institutions. This could be achieved through collaboration with different NGOs. The NGOs should ensure for the proper placement of these juveniles after their release from the institutions.

6.6.3. Juvenile Justice Board

The JJB must maintain proper records of judicial proceedings. The P.Os should be required to submit all reports right from the first summary inquiry to all fortnightly reports of juveniles on probation for them to be reviewed by the JJB. The JJB should send quarterly information about the JICL to the Child Protection Unit and the relevant commissions for proper monitoring.

Moreover for the benefit of JICL who have not been institutionalized there should be proper documentation of all kinds of non-institutional services that they could avail of. This should also be shared with all stakeholders for effective cooperation amongst them and integration of different services to fill in the gaps in the delivery mechanism, thus providing for the holistic rehabilitation of JICL.

8. Conclusion

The JJA is considered a watershed in the history of child legislations in India. Like its international predecessors (Convention on Rights of Child, Beijing Rules, Riyadh Guidelines), the JJA stresses on the importance of the rehabilitation of Juveniles in Conflict with Law(JICL) in a manner so as to promote their 'dignity and self worth'.

The implementation of the Act has suffered from severe infrastructural bottlenecks, which debilitated the delivery mechanism of the entire system. Initiatives which were taken to improve the system happened sporadically and did not sustain for long. There is a need to delineate the roles of different departments-education, labor, health, law and ensure that the channels of rehabilitation are well defined and well established. The different departments should then work in tandem to provide for the holistic

rehabilitation of these children. There is also a requirement for a proper monitoring mechanism in place to assess the effectiveness of the rehabilitation of these children.

However the biggest stumbling block still remains the attitudes of the Juvenile Justice functionaries. One could have the entire infrastructure in place, but things can change for the better, only with the cooperation and sensitisation of the people involved.

ANNEXURE-1

FORM IV

[Rules 13(5) and 87(1)(a) and (2)]

SOCIAL INVESTIGATION REPORT

Sl. No. _____

Submitted to the Juvenile Justice Board _____ (address).

Probation Department/Concerned State Government Authority/Voluntary

Organisation _____ (Signature

and Stamp)

Profile No.

Under section:

Title of Profile:

Police Station:

Nature of offence charge:

Name Religion

Father's Name Caste

Permanent Address Year of birth

Last address before apprehension Age

Sex _____

Previous institutional/case history and individual care plan; if any

FAMILY

Members Name Age Health Education Occupation earnings Disabilities social habits

Father

Step

Father

Mother

Step

mother

Siblings

Any

other

legal

guardian/

relative

If married; relevant particulars

—

Other near relatives or agencies

Interested_____

–

Attitude towards religion normal

And ethical code of the home
etc._____

Social and economic
status_____

Delinquency record of members

of family_____

Present living
conditions_____

Relationship between parents/

Parents and children especially

With the juvenile under
investigation_____

Other factors of importance if any_____

JUVENILES HISTORY

Mental condition

(Present and
past)_____

Physical condition

(Present _____ and
past)_____

Habits; interests

(moral; recreational etc.)_____

Outstanding characteristics and

personality

traits_____

Companions _____ and _____ their

influence_____

Truancy from home; if any

—

School (attitude towards school;

teachers; class mates and vice-versa)

Work record (jobs held; reasons for leaving;

vocational _____ interests; _____ attitude _____ towards _____ job _____ or

employers)_____

Neighbourhood _____ and _____ neighbours

report_____

Parent's attitude towards discipline

in the home and child's reaction_____

Any other remarks

RESULT OF INQUIRY

Emotional factors

Physical condition

Intelligence

Social and economic factors

Religious factors

Suggested causes of the problems

Analysis of the case including reasons for delinquency

Opinion of experts consulted

Recommendation regarding treatment and its Plan by Probation Officer

Signature of the Probation Officer/Case Worker

ANNEXURE 2

FORM XXI

[Rules 50(12)(a); 54(1)(o) and 87(1)(k)]

INDIVIDUAL CARE PLAN

Individual care plan for each child shall be prepared following the principle of the best interest of the child. In preparing individual care plan the care options in the following order

of preferences shall be considered:

- (i) Preserving the biological family
- (ii) Kinship Care
- (iii) In-country adoption
- (iv) Foster Care
- (v) Inter-country Adoption
- (vi) Institutional Care

Case/Profile No. of 20____(year) of the Board/Committee

Admission No.

Date of Admission:

A. PERSONAL DETAILS

1. Name of the Child:
2. Age:
3. Sex: Male/Female

4. Father's/Mother's name:

5. Nationality:

6. Religion/caste:

7. Educational Attainment:

8. Summary of Case History:

- Health needs
- Emotional and psychological support needed
- Educational and Training needs
- Leisure; creativity and play

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- Attachments and Relationships
- Religious beliefs
- Protection from all kinds of abuse; neglect and maltreatment
- Social mainstreaming
- Follow-up post release/restoration

B. FORTNIGHTLY PROGRESS REPORT OF PROBATIONER

Part One

1. Name of the Probation Officer/Case Worker
2. For the month of
3. Registration No.
4. Competent Authority
5. Profile No.

- 6. Name of the Child
- 7. Date of Supervision Order
- 8. Address of the Child
- 9. Period of Supervision

Part Two

Places of interview Dates

.....
.....
.....

- 1. Where the child is residing?
- 2. Progress made in any educational/training course.
- 3. What work he/she is doing and his/her monthly average earning; if employed.
- 4. Savings kept in the Post Office.
- 5. Savings Bank Account in his/her name.
- 6. Remarks on his/her general conduct and progress.
- 7. Whether property cared for?

Part Three

- 1. Any proceedings before the competent authority of or
 - a) Variation of conditions of bond
 - b) Change of residence
 - c) Other matters
- 2. Period of supervision completed on.....

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3. Result of supervision with remarks (if any)

4. Name and Addresses of the parent or guardian or fit person under whose care the juvenile is to live after the supervision is over.

Date of report _____ Signature of the Probation Officer/Case Worker _____

C. PRE-RELEASE REPORT

Tick whichever is applicable

Final Release Transfer

1. Details of place of transfer and concerned authority responsible in the place of transfer/release
2. Details placement of the juvenile/child in different institutions
3. Training undergone and skills acquired
4. Final progress report of the officer-in-charge/probation officer/child welfare officer/case worker/social worker (to be attached)
5. Date of release/transfer
6. Date of repatriation
7. Requisition for escort if required
8. Identification of escort
9. Recommended rehabilitation plan including possible placements

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10. Sponsorship requirement and report; if applicable
11. Identification of Probation Officer/Case worker/social worker/non-governmental organisation for post-release follow-up
12. Memorandum of Understanding with non-governmental organisation identified for postrelease follow-up
13. Identification of sponsorship agency/individual sponsor for the child post-release; if any
14. Memorandum of Understanding between the sponsoring agency and individual sponsor
15. Details of Savings Account of the child; if any
16. Details of child's earnings and belongings if any
17. Details of awards/rewards due to the child if any
18. Opinion of the child
19. Any other information

Note: Pre-release report shall be prepared 6 months prior to the date of release/transfer of juvenile/child and shall take into account the recommendations of the last review report and all other relevant information.

D. POST-RELEASE REPORT

1. Status of Bank Account : Closed / Transferred
2. Earnings and belongings of the child : handed over to the child or his/her parents/guardians – Yes/No
3. First interaction report of the probation officer/child welfare officer/case worker/social worker/non-governmental organisation identified for follow-up with the child post-release
4. Placement of the juvenile/child if any
5. Family's behaviour towards the child
6. Social milieu of the child; particularly attitude of neighbours/community
7. How is the child using the skills acquired?
8. Whether the child has been admitted to a school or vocation? Give date and name of the school/institute/any other agency
9. Report of second and third follow-up interaction with the child after two months and six months respectively

ANNEXURE 3(Ministry of WCD.2008)

SI.No.	Schemes					2001-02	2002-
03	2003-04 2004-05 2005-06 2006-07						
1.	Prevention and Control of Juvenile Social Maladjustment (A Programme for Juvenile Justice)	11.25	14.40	17.46			
18.90	22.69 24.55						
2.	Other Schemes of Child Welfare**	15.8	16.02	14.80			
17.50	16.10 19.00						
3.	Scheme for Rescue of Victims of Trafficking	--	--	--			
--	0.25 0.45						
4.	Short Stay Home		12.84	12.84			
15.35	14.40 15.00 15.90						
5.	Swadhar		--	9.00			
0.80	3.69 5.5 7.0						
6.	Improvement in Working Conditions of						

	Child/Women Labour				62.0	70.56
68.26	98.38	115.76	127.46			
7.	Initiative to Develop Skills; ITIs and Elimination of Child Labour in 10th Plan				--	--
-	--	--	--			-
8.	<i>Allocations on Child Protection in Union Budget-</i>				101.89	122.82
116.67	152.87	175.30	193.91			
	<i>(1+2+3+4+5+6+7)</i>					
9.	Total Expenditure of Union Government				364436	404013
474254	505791	508705	563991			
10.	Budget for Child Protection as %age of total Union Budget				0.028	0.030
0.024	0.030	0.034	0.034			

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