

**Learning Initiative on Juvenile Justice  
Identifying Priorities and Framework of Action**

**19 – 20 March 2013**



Report  
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## Acronyms and abbreviations

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CCL	Children in conflict with the law
CNCP	Child in need of care and protection
CPCR	Commissions for Protection of Child Rights
CRC	UN Convention on the Rights of the Child
CWC	Child Welfare Committee
CWO	Child Welfare Officer
DCPU	District Child Protection Unit
DoH	Department of Home
DSW	Department of Social Welfare
DWCD	Department of Women and Child Development
ECOSOC	UN Economic and Social Council
ICPS	Integrated Child Protection Scheme
IGNOU	Indira Gandhi National Open University
JJ	Juvenile Justice
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2000
JJB	Juvenile Justice Board
MST	Multisystem Therapy
MWCD	Ministry of Women and Child Development
NCPCR	National Commission for Protection of Child Rights
PIL	Public Interest Litigation
PRI	Panchayati Raj Institution
SCPU	State Child Protection Unit
SIR	Social Investigation Report
SJPU	Special Juvenile Police Unit
SLSA	State Legal Services Authority
SSA	Sarva Shiksha Abhiyan

## Executive Summary

The Learning Initiative on Juvenile Justice was organised with an aim to enhance understanding on children in conflict with the law, including international legislation and standards, frameworks of interventions, and examples of interventions from the field. The initiative facilitated learning, exchange of ideas, and knowledge amongst the participants. Key priority areas for interventions were identified, discussed and a common framework for action was agreed upon at the end of the two-day programme.

A total of 43 participants comprising of State Government representatives from the Departments in charge of implementation of the JJ Act, personnel from State Child Protection Societies, Police officials, State Commission for Protection of Child Rights and consultants at the Ministry of Women and Child Development participated in the deliberations. Besides, representatives from NGOs working extensively on juvenile justice such as ECHO from Karnataka and Aangan (Mumbai) shared their insights. UNICEF Child Protection Staff from Delhi and 11 Field Offices also participated.

A panel of distinguished group of Resource Persons and speakers presented theoretical concepts and perspectives on juvenile justice, international standards, administrative challenges and concerns of JJ Act implementation in India and innovative interventions that have made a difference at the field level. The resource persons highlighted that the primary instrument concerning State obligations to respect, protect and fulfill children's rights is the UN Convention on the Rights of the Child; the General Comment No. 10 provides guidance on how children in conflict with the law should be treated in line with the CRC. Besides, international standards reiterate that children should only be detained in custody as a last resort and for the minimum necessary period. Moreover, the contact with the juvenile justice system should result in a positive impact on the juvenile and the gravity of the offence should not be the focus for treatment of juvenile, which means that the treatment of juveniles is not decided on the basis of the seriousness of the offence committed, but on the psycho-social circumstances of the offender, including those that resulted in the child committing the offence. Most of the participants as well as the resource persons acknowledged that there is a need to have more of non-institution alternatives, focus on prevention and rehabilitative strategies for effective implementation of juvenile justice system in India.

Some of the key areas of actions that emerged from the discussions included:

- The need to strengthen the functioning of Juvenile Justice Boards and its allied systems
- Implementation and integration of preventive programmes within the Integrated Child Protection Scheme
- Up-scaling of reform programmes and improved knowledge management.
- The need to develop and circulate standardised national operating guidelines for Juvenile Justice Boards covering both the selection process and job responsibilities of its members. This came up as one of the immediate steps to be undertaken to strengthen the functioning of the Juvenile Justice Boards.
- Involving the Juvenile Justice Committee of the High Court in monitoring the implementation of the JJ Act
- Sensitization and regular capacity building initiatives for personnel
- Timely release of funds, for e.g., provisioning of funds for Special Juvenile Police Units
- Ensuring appropriate infrastructure
- Creating a panel of legal aid professionals at JJB/district levels for free, timely and effective legal aid
- Strengthening other protective programmes such as the sponsorship, foster care programmes, etc.
- Inclusion of data from the juvenile justice system into the child track system.

**Learning Initiative on Juvenile Justice  
Identifying Priorities and Framework of Action  
19 – 20 March 2013, New Delhi**

**1. Overview**

The Learning Initiative was organised with an aim to enhance understanding on children in conflict with the law (CCL), including international legislation and standards, frameworks of interventions, and examples of interventions from the field. The initiative facilitated learning, exchange of ideas and knowledge amongst the participants. Key priority areas for interventions were identified, discussed and a common framework for action was agreed upon at the end of the two days programme.

There were a total of 43 participants (refer Annexure 1) comprising of State Government counterparts from ten states, including Directors/Deputy Directors in charge of implementation of the Juvenile Justice (JJ) Act in the State Governments, Police Officials and personnel in charge of the State Child Protection Societies from the states of Maharashtra, Assam, Uttar Pradesh, Rajasthan, Bihar, Jharkhand and Tamil Nadu. Consultants in charge of JJ Act implementation at the Ministry of Women and Child Development (MWCD), and from the Central Project Support Unit of Integrated Child Protection Scheme (ICPS) also participated in the consultation. Besides, there was participation and sharing of experiences from select NGOs working extensively on Juvenile Justice (JJ) such as ECHO from Karnataka and Aangan (Mumbai). UNICEF Child Protection Staff from Delhi and 11 Field Offices also participated.

A panel of distinguished group of Resource Persons and speakers presented theoretical concepts and perspectives on juvenile justice, international standards, administrative challenges and concerns of JJ Act implementation in India and innovative interventions that have made a difference at the field level. Most of the sessions began with speaker presentations, followed by discussions, experience-sharing opportunities, and the group work sessions, which were interactive and participatory.

**1.2 Objectives**

The objectives of the learning initiative were to:

- (a) Develop a comprehensive understanding on the international standards and framework on juvenile justice, the JJ Act in India, and interventions with children in conflict with the law, from within and outside the country;
- (b) Deliberate upon and identify the most relevant and appropriate programme interventions, with a focus on prevention of juvenile offences, diversion, prevention of reoffending, reintegration, and alternatives to deprivation of liberty;
- (c) Develop and agree upon a common framework for action and key priority actions for advocacy and action on children in conflict with the law, and UNICEF's role in promoting these programme interventions at the national and state levels.

**1.3 Expectations from the Learning Initiative**

The open forum solicited feedback from participants on their expectations from the learning initiative, which is categorised into two areas, namely, (a) seeking clarity on concepts, definitions and strategies, and (b) addressing implementation related issues and concerns.

- (a) The expectations related to clarity on concepts, definitions and strategies included:

- Need for conceptual clarity on the concept of Diversion and Restorative Justice;
- Enhanced understanding of reform processes;
- Further debate on the 'age' of the child and age of juvenility;
- Strategies for rehabilitation of repeat offenders.

(b) Majority of the learning expectations pertained to strengthening implementation in the following areas:

- Institutional mechanisms to promote inter-departmental convergence;
- Effective monitoring of existing institutions to ensure implementation of minimum standards;
- Mechanisms to reduce pendency of cases in the Juvenile Justice Boards (JJB);
- Effective measures and workable systems for reformation and rehabilitation programmes;
- Uniformity and standardization in functions of Child Welfare Committees (CWC)/ Juvenile Justice Boards;
- Administration of Special Juvenile Police Units (SJPU);
- Age specific treatment within the JJ system;
- Clarity and coordination of roles of Principal Magistrate and Social Workers of Juvenile Justice Boards;
- Addressing the challenge of data and information;
- Good practices for dealing with juveniles bordering the age of adulthood, enquiry of juveniles with adults, in the area of prevention and diversion, quick service delivery and ensuring accountability;
- Budget for Police under JJ system, funds under ICPS for JJ implementation;
- Modalities for government and civil society and NGO convergence on JJ Implementation.

## **2. Summary of Discussions**

### **2.1 Introductory Address**

In his opening remarks, Mr David McLoughlin, Deputy Representative, UNICEF India noted that India has one of the more progressive juvenile justice legislations in South Asia. The Juvenile Justice (Care and Protection of Children) Act, 2000 the overarching legislation for child protection in India invokes the UN Convention on the Rights of the Child (CRC) and International Standards, has provisions for deprivation of liberty, restorative and reformatory justice, diversion and alternatives to sentencing. The Act calls for establishing separate protection structures and qualified and experienced JJ personnel. However, he said that in India the challenge is not so much the Act, but its implementation – for example, in the year 2011, 7,292 juveniles were sent to Special Homes, a figure not that humongous that cannot be managed, yet difficulties in implementation exist. Besides, in the absence of a comprehensive reform package, the JJBs are left with no other option but to place children in poorly managed centres/institutions that offer no meaningful reform. Development and implementation of comprehensive reform package is of utmost urgency, and a lot can be learnt from some countries, which have successfully implemented such packages.

Although the law attempts to make justice delivery child friendly, a lot is needed to ensure that the personnel who implement the law – including the police, judiciary, and child protection personnel have the right attitudes and appropriate capacities. It is often the inappropriate selection and poor training of juvenile justice personnel, absence of specialized and multidisciplinary teams, poorly managed residential facilities and poor monitoring and oversight that impacts implementation.

It is not to indicate that everything seems bleak and nothing has happened for juvenile justice in India. The Integrated Child Protection Scheme (ICPS) with its primary objective of

strengthening implementation of the JJ Act is a constructive step forward. Additionally, the scheme also provides budget for innovative and need-based interventions, which can be effectively used to design and implement interventions for children in conflict with the law, including comprehensive programmes for prevention as well as reform.

Mr McLoughlin further explained to the participants that over the next two days, there would be deliberations extensively on many of the concerns and challenges, opportunity for making concrete recommendations, identifying priorities and framework of action to strengthen the administration and implementation of the JJ Act. He said that by discussing, debating and sharing experiences and expertise the group would be able to concretise an implementable framework of action that encompasses all facets of the JJ Act - from actions that address the role of police and SJPU, role of JJBs, to reducing pendency, to use of alternatives to detention, facilitating inter-sector convergence that focus on psychosocial, education, vocational interventions, etc., so that the system delivers juvenile justice in the best interest of children.

*Mr McLaughlin said that the Integrated Child Protection Scheme (ICPS) with its primary objective of strengthening implementation of the JJ Act is a constructive step forward. The scheme also provides budget for innovative and need-based interventions, which can be effectively used to design and implement interventions for children in conflict with the law, including comprehensive programmes for prevention as well as reform.*

## 2.2 Juvenile Justice: International Standards and Juvenile Justice Act in India

**2.2 (a) Nikhil Roy, Programme Development Director, Penal Reform International** spoke about the existing international standards on promoting juvenile justice and how the standards translated into reality at the ground vary from state to state and within the state from region to region. According to him international standards are clear that children should only be detained in custody as a last resort and for the minimum necessary period. The vast majority of children in conflict with the law should be diverted from the formal criminal justice system and alternative sanctions, which promote their rehabilitation and reintegration into society, should be used. Residential institutions, which host children, should have rehabilitation and reintegration as the main objective of all policies and processes. There is a wide range of standards concerned with helping children in conflict with law. The Beijing Rules adopted by the UN General Assembly in 1985 before the CRC is a useful document to review, to look at the administrative aspects of juvenile justice implementation. The primary instrument concerning State obligations to respect, protect and fulfill children's rights is the CRC (particularly articles 40, 37), which is a binding document wherein the State parties are obliged to give effect to the convention by means of laws, policies and practices designed to further its goals and to report on their progress. The General Comment No. 10 of the CRC provides compelling guidance on how children in conflict with the law should be treated in line with the CRC. The Riyadh Guidelines, 1990 focuses on preventive aspects of juvenile justice, whereas UN Rules for the Protection of Juveniles Deprived of their Liberty: (Havana Rules) also adopted in 1990 looks at children in detention, care and protection aspects and release and rehabilitation measures. The Bangkok Rules adopted in 2010 addresses how women and girls deprived of their liberty differ in their needs from men and boys and how they should be treated, etc.

*The primary instrument concerning State obligations to respect, protect and fulfill children's rights is the CRC; the General Comment No. 10 of the CRC provides compelling guidance on how children in conflict with the law should be treated in line with the CRC.*

**2.2 (b) Maharukh Adenwalla** began her presentation by saying that the principles of juvenile legislation should remain unalterable or in other words principles cannot change to

suit a given situation. These principles highlights that both – children in need of care and protection and those in conflict with the law require ‘care and protection,’ this requirement of ‘care and protection’ is the reason why children, under a particular age, who have committed an offence are not to be dealt with in the same manner as an adult offender.

Juveniles need to be dealt with under the juvenile justice system; hence, all persons who have not completed the age of 18 years on the date of commission of the offence should be dealt with under the juvenile justice system and not the criminal justice system. The objective of juvenile legislation is reformation and rehabilitation. Therefore, whatever the circumstance, the matter regarding children in conflict with law should go to the Juvenile Justice Board. The contact with the juvenile justice system should result in positive impact upon the juvenile and the gravity of the offence should not be the focus for treatment of juvenile, which means that the treatment of juveniles is not decided on the basis of the seriousness of the offence committed, but on the psycho-social circumstances of the offender, including those that resulted in the child committing the offence. There is a special provision [under section 16 of the JJ Act] for treatment of juveniles who have attained the age of 16 years and found to have committed a serious offence, such a child may be placed in a place of safety but only if the JJB is satisfied that none of the other measures under JJA 2000 are appropriate in that particular case. The placement of a juvenile in a residential institution should be of last resort and for a minimum period, and the essence of juvenile legislation is to treat the juvenile age-appropriately.

*The contact with the juvenile justice system should result in positive impact upon the juvenile and the gravity of the offence should not be the focus for treatment of juvenile, which means that the treatment of juveniles is not decided on the basis of the seriousness of the offence committed, but on the psycho-social circumstances of the offender, including those that resulted in the child committing the offence.*

Maharukh Adenwalla further explained that the JJ Act 2000, amended in 2006 is a comprehensive piece of legislation; however, the problem is largely related to its operationalisation and implementation. Addressing the implementation gaps covers a wide area, for e.g., selection of the right people in the right positions with appropriate qualifications and training (social workers, probation officers, etc.), better management of institutions, oversight to ensure regular reviews and monitoring, focus on social aspects, for e.g., on prevention, better body of research needed on the essence of juvenile justice and provision of legal aid lawyers for JJBs, are a few important steps she mentioned to strengthen implementation.

### **2.3 Key Concepts: Diversion, Restorative Justice, and Alternatives to Deprivation of Liberty**

#### **2.3 (a) Understanding Diversion and Restorative Justice - Professor Jaap E Doek (discussion through Skype)**

Professor Jaap E Doek explained that the objective of Diversion is to divert juveniles in conflict with the penal law from the adult criminal justice system. Diversion as we know today is firmly based in the Beijing Rules and the CRC, and the concept of restorative justice is meant to contribute to the core objectives of juvenile justice, which is the reintegration in the society of the child in conflict with law, and promoting that this child assumes a constructive role in society. The CRC under article 40 and the General Comment No. 10 provides State parties with concrete guidance and recommendations for the implementation of Diversion as a strategy to promote juvenile justice.

As regards diversionary measures it is left to the State parties to decide on the exact nature and content of devising diversionary measures. Experiences from countries and from State party reports to the CRC Committee reveal that as diversionary measures a variety of

community based programmes have been developed, such as community service, supervision and guidance by social workers or probation officers, family conferencing and other forms of restorative justice, including restoration and compensation for the victim.

It is rather easy to include in law a provision, which allows specified authorities, such as the police and /or the prosecutor to use diversion as a tool to avoid formal legal proceedings. But in reality a number of countries have noted that the major challenge is the implementation of this provision. The implementation of diversion requires a well-trained service provider such as a probation or social work service. But such services often do not exist and if they do, they often have to develop diversionary measures, such as community service, supervision and restorative justice programmes. Many countries do have experience with the practice of diversion, such as the Netherlands. Data from the Netherlands show that in all cases of alleged offenses by children, 40% is diverted by the police and out of the remaining 60% two thirds is diverted by the prosecutor and ultimately only about 20 out of every 100 juvenile offenders are dealt with by the juvenile court. Therefore diversion is meant to avoid that the child has to be dealt with and sentenced by the juvenile court. In other words diversion is and should be a matter of the police, the prosecutor or another competent body and not of the court.

As regards, the concept of restorative justice it has its origins in the way the indigenous people dealt with crimes, for e.g., the Maoris in New Zealand, the aboriginals in Australia, etc. The restorative process as defined by UN Economic and Social Council (ECOSOC)<sup>1</sup> is 'any process in which the victim, the offender and /or other individual or community members affected by a crime actively participate with the help of a fair and impartial third party. Examples of restorative justice include mediation, conferencing and sentencing circles.'

Restorative justice and diversion are often linked with each other but they are different concepts. Diversion is dealing with an offence without resorting to the juvenile justice proceedings and does not necessarily imply an active interaction between the offender and the victim for the purpose of compensating the victim. Restorative justice can be, but is not always, an alternative to prosecution as diversion is. It can be part of the sentence by the juvenile court or it can lead to an agreement between the offender and the victim as an alternative for sentencing by the court.

*The core elements of restorative justice are responsibility, restoration and reintegration. The offender and the victim are central in the restorative justice process and thus it is different from the traditional criminal justice practice in which reprisal/retaliation, punishment and general prevention are the core notions.*

There are experiences with different forms of restorative justice such as family group conferencing and victim offender mediation for instance in Argentina, Northern Ireland, South Africa, in other countries like New Zealand, Belgium restorative justice is an integral element of juvenile justice but in many other countries it is a marginal activity offering restorative services like in The Netherlands.

### **2.3 (b) Alternatives to deprivation of liberty - Professor Ved Kumari, Faculty of Law, Delhi University**

Professor Ved Kumari began an interactive session with the definition of deprivation of liberty, which means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority. She explained that often in

*During her session, Prof Ved Kumari highlighted the importance of the Social Investigation Reports for the JJB to arrive at appropriate decisions in the best interests of the child.*

<sup>1</sup> Basic Principles on the Use of Restorative Justice (Res.2002/12)

the case of juveniles the reality is preparing for freedom by taking away their freedom, preparing for responsibility by giving them no responsibilities and preparing for reintegration in society by cutting them off from society. This, she indicated was the irony of deprivation of liberty. Therefore according to her institutions should be a measure of last resort for the minimum period till suitable community measure is found for the juvenile because even the best of institutions can have a negative impact on the juvenile, for e.g., stigmatization, being cut off from friends, family and society, poses problem for reintegration, involves more costs and most institutions are not good with poor infrastructure and facilities. With two case studies she involved the participants to think and understand that the concept of criminality in India, which is so coloured by the Indian Penal Code, the need to analyse and seek additional information before making conclusions on juvenile justice and also to look at law from the perspective of children.

## 2.4 Administration of the JJ Act in India: Challenges and Concerns

This group work session looked into the major challenges and concerns regarding JJ implementation, which comprised of examining the status of different structures responsible for CCL, the role and functioning of key structures and stakeholders its strengths, weaknesses and available good practices and key issues for strengthening structures and programmes/services for children in conflict with law.

The five groups identified a wide range of issues and concerns ranging from the selection of right people for the right posts, incentivizing staff, inclusion of JJ Act in the criminal manual of the magistrates, inclusion of training on juvenile justice in judicial academy and in police training centres, involvement of NGOs to provide services, improvement of technical education and vocational training, use of Social Investigation Report (SIR) for effective rehabilitation and implementation of after care scheme.

Refer Table 1 for a detailed look into the issues, concerns and challenges discussed on the administration of juvenile justice in India.

Table 1: Administrative Challenges in JJ Implementation	
Area	Challenges & Concerns
Juvenile Justice Board (Sittings, functioning, pendency)	<ul style="list-style-type: none"> <li>• Change in mindset of the judiciary needed, lack of knowledge, sensitivity, capacity, clarity in procedure/processes regarding JJ implementation;</li> <li>• Need for selection of 'appropriate' magistrates and JJB Social Workers as per JJ Act;</li> <li>• Poor knowledge and capacity of selected social workers in judiciary process;</li> <li>• Limited skills of JJB members to deal with CCL;</li> <li>• Under-resourced JJBs (dedicated staff, structures etc.);</li> <li>• Principal Magistrates not full time;</li> <li>• Timely payment of staff;</li> <li>• Little time and multiple functions of the magistrates;</li> <li>• Lack of training on JJ Act and juvenile justice paradigm;</li> <li>• Sittings and staff should be proportionate to pending cases;</li> <li>• Pendency in rarely reviewed as per the JJ Act-2000;</li> <li>• JJB need to have jurisdiction in one district only;</li> <li>• Lack of monitoring by Chief Judicial Magistrate /Judiciary/ High Court JJ Committee;</li> <li>• Poor and irregular data management;</li> <li>• Not adequate information about JJB to stakeholders;</li> <li>• Free legal aid-negligible; high presence of lawyers to deal with individual cases;</li> <li>• JJ system not child friendly, children are not heard.</li> </ul>

<b>Role and functioning of SJPU and Police</b>	<ul style="list-style-type: none"> <li>• SJPU just on paper, only a few are functioning well;</li> <li>• Lack of standardization of SJPU constitution and formation and no model norms at district level;</li> <li>• No budget provision for SJPU;</li> <li>• Lack of knowledge about the JJ Act, its implementation processes and dealing with children amongst SJPU and Child Welfare Officers (CWO);</li> <li>• Monitoring and follow-up of cases negligible;</li> <li>• Frequent transfers of trained personnel;</li> <li>• No inter-department convergence between Department of Women and Child Development (DWCD) and Department of Home (DoH).</li> </ul>
<b>Observation Homes and Special Homes infrastructure and quality of care</b>	<ul style="list-style-type: none"> <li>• No compliance with the JJ Rules;</li> <li>• Often there is no separation of Observation and Special Homes;</li> <li>• No separation between older and younger children;</li> <li>• Meaningful, relevant and placement oriented vocational training programmes missing;</li> <li>• Lack of child care plans;</li> <li>• Inadequate infrastructure - child friendly living premises does not exist, non compliance with minimum standards;</li> <li>• Lack of monitoring and inspection of such Homes with regard to quality of care;</li> <li>• Child in need of care and protection (CNCP) and CCL clubbed together in Observation Homes;</li> <li>• Different approach to Urban and Rural Observation and Special Homes needed;</li> <li>• Lack of mapping of institutions in states, particularly private institutions;</li> <li>• Per child allocation is skewed;</li> <li>• Abuse issues by caregivers and between children.</li> </ul>
<b>Opportunities for Rehabilitation /Reintegration (psychosocial, education, vocational, legal aid, after care services)</b>	<ul style="list-style-type: none"> <li>• No head-way in non-institutional approaches;</li> <li>• Lack of presence and sustainability of a multi- disciplinary team to implement rehabilitation/ reintegration programmes;</li> <li>• Role of Probation Officers in rehabilitation of CCLs needs clarity;</li> <li>• Non-availability of appropriate/ market oriented vocational training;</li> <li>• After care programme for children approaching 18 years is little understood;</li> <li>• Need for life skills training, linking with Sarva Shiksha Abhiyan (SSA), engagement of NGOs, linking with vocational skill development programmes, use of library and sports materials, counselling and psychosocial support, legal aid, etc. in the rehabilitation and reintegration package;</li> <li>• Systems of ICPS not matured to meet demands and to create linkages;</li> <li>• Use of SIR for effective rehabilitation.</li> </ul>
<b>Engagement with HC Committees, PILs others</b>	<ul style="list-style-type: none"> <li>• JJ HC Committees constituted but non functional;</li> <li>• Role of JJ HC Committees need a clear terms of reference;</li> <li>• No inputs from committee to the statutory bodies;</li> <li>• HC Committees as review/monitoring bodies should be made mandatory and meetings held regularly;</li> <li>• Public Interest Litigations (PIL) could create awareness and educate judiciary but need to be used wisely.</li> </ul>

## 2.5 Keynote Address on Juvenile Justice issues in India by Hon'ble Mr Justice Madan B Lokur, Judge, Supreme Court of India

Hon'ble Mr Justice Madan B Lokur spoke about his experience in working on juvenile justice issues in three states, namely, Delhi, Assam and Andhra Pradesh. He referred to his experience of working and partnering with UNICEF state offices in Assam and Andhra Pradesh, for example, capacity building and training of judicial officials on the JJ Act and bringing out a monthly newsletter on Juvenile Justice as a tool to share knowledge, and to reach out to a wide group of people and stakeholders in Assam. He also spoke about a study on the working of the Child Welfare Committees in Andhra Pradesh. He shared a case story about a boy whom he had met in the Observation Home in Jorhat, Assam. The boy remanded by the Juvenile Justice Board was in the observation home for eight months, his case had not been discussed or reviewed by the Juvenile Justice Board, against and contrary to the Article 21 of the Constitution of India and the Code of Criminal Procedure. Justice Madan B Lokur highlighted the following areas of interventions to strengthen juvenile justice system, which include:

- The need for all stakeholders to work collectively, like the police, department of social welfare, judiciary, NGOs and the civil society for a collective response.
- Develop a collective plan of action; study the issues, challenges and concerns to get the correct picture, document and share information and use the available expertise.
- Sensitise the police force, developing appropriate training manuals and providing training to police personnel, an important first step. Establish partnership with the National Police Academy and the State Police Academies to mainstream training on juvenile justice.
- Persons on the Juvenile Justice Boards and members of Child Welfare Committees need to regularise their visits to Observation Homes to know the exact position of each juvenile, understand and interact with children, assess the conditions in the homes, the length of stay, reasons for keeping children in the homes and assess whether the atmosphere in Observation Homes is child friendly or not, etc. Specific studies could be undertaken to gauge and assess the situation in Observation Homes, for example, like the study in Delhi of juveniles in Observation Homes that helped in the release of children from the Observation Homes.
- There is a need to bring issues, challenges and concerns regarding juvenile justice system to the JJ Committee of the High Court and may be file PIL whenever apt to ensure continuous monitoring and effective implementation of the JJ Act.
- Members of the Juvenile Justice Boards also need to be in regular touch with Probation Officers.
- There is no scope in the present system for children to express their views, child participation has to be institutionalised and Juvenile Justice Boards must be able to hear what the children have to say.
- Better documentation needed on the work undertaken by the Juvenile Justice Boards. This material/documentation could also be used for future course of action.
- Continuing education to create awareness on JJ Act is needed in the country. May be it could be done through the production and dissemination of newsletters as in the case of Delhi and Assam or through wide circulation of brochures, posters, etc.
- Rehabilitation and reintegration in the juvenile justice system is not given priority hence no one actually takes the responsibility. Besides, Observation Homes involve children in activities that are redundant; there is a need to look at newer areas in skills development, identify, consult and partner with people and organisations who could help out in rehabilitation and reintegration activities.
- As regards pendency of cases, there is a need to make somebody responsible and accountable in the juvenile justice system.

## 2.6 Innovative Interventions on Juvenile Justice

### 2.6 (a) Nikhil Roy, Programme Development Director, Penal Reform International

Mr Nikhil Roy's presentation looked at innovation in five main areas, namely, prevention, diversion - at point of arrest and at sentencing through alternative sanctions, during trial process, innovations in sentencing and reintegration.

Referring to international standards like the Riyadh Guidelines No. 5, 9 and 48 and CRC Committee's General Comment No.10, he stressed on the need for and importance of delinquency prevention policies, which facilitate the socialisation and integration of all children. The institutionalisation of young persons should be a measure of last resort and for the minimum necessary period. He reiterated that when intervention plans are made the risk and

*Programmes to prevent delinquency must be planned and developed based on reliable, scientific research findings, and periodically monitored, evaluated and adjusted accordingly. Close interdisciplinary co-operation and coordination and involvement of the private sector representatives, civil society and citizens at the community level is essential to prevent delinquency.*

protective factors at family, school, community, individual and peers need to be taken into consideration (refer Table 2 below).

**Table 2: Factors to be considered while planning for interventions**

<b>Risk factors</b>	<b>Protective factors</b>
<b>Family factors</b>	
<ul style="list-style-type: none"> <li>• Low family socio-economic status</li> <li>• Parents, siblings or other family members with offending and anti-social behaviour</li> <li>• Harsh and inconsistent parenting</li> <li>• Poor parent-child relationships</li> <li>• Early victimisation (physical, sexual and other abuse)</li> <li>• Violence in the home</li> <li>• Passive or condoning attitudes to anti-social and criminal behaviour</li> </ul>	<ul style="list-style-type: none"> <li>• High socio-economic status</li> <li>• Parents who provide pro-social role models</li> <li>• Consistent parental support and supervision</li> <li>• Strong bonds to parents</li> <li>• No early trauma or abuse</li> <li>• Safe home</li> <li>• Clear moral guidance from parents regarding anti-social and criminal behaviour</li> </ul>
<b>School Factors</b>	
<ul style="list-style-type: none"> <li>• Weak attachment to school</li> <li>• Low educational achievement</li> <li>• Organisational weakness in the school</li> <li>• Aggressive behaviour and bullying</li> </ul>	<ul style="list-style-type: none"> <li>• Strong bonds to teachers.</li> <li>• Strong educational attainment</li> <li>• Well functioning school</li> <li>• Good relationships with classmates</li> </ul>
<b>Community factors</b>	
<ul style="list-style-type: none"> <li>• Lack of attachment to the local community</li> <li>• Ready availability of drugs</li> <li>• Disadvantaged area</li> <li>• High turnover of the population</li> <li>• Gangs operating in the area</li> </ul>	<ul style="list-style-type: none"> <li>• High community involvement</li> <li>• Drug free neighbourhood</li> <li>• High socio-economic area</li> <li>• Stable population</li> <li>• No gang networks operating</li> </ul>
<b>Individual/Peer factors</b>	
<ul style="list-style-type: none"> <li>• Association with delinquent peers</li> <li>• Substance abuse</li> <li>• Aggression and impulsivity</li> <li>• Attitudes sympathetic to offending</li> </ul>	<ul style="list-style-type: none"> <li>• Pro-social peers</li> <li>• Social skills</li> <li>• Self control</li> <li>• Attitudes against offending</li> </ul>

The Snap Outreach Programme in Canada and Communities that Care programme (USA) are some of innovative practices in prevention he shared.

Further he shared examples of the specialised police units in Jordan and France’s ‘Rappel a la loi’ as examples of diversion on arrest. He said that as per the Beijing Rules, Rule 11; consideration must be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority.

Further quoting Beijing Rules, Rule 18 he said that a large variety of disposition measures need to be made available to the competent authority, allowing for flexibility so as to avoid institutionalisation to the greatest extent possible. The use of Multisystemic Therapy (MST) as alternative sanction is he said was a gold standard. MST is an intensive family-and community-based treatment programme that focuses on all aspects of chronic and violent juvenile offenders lives — their homes and families, schools and teachers, neighbourhoods and friends. Elements of MST programme include:

- MST clinicians go to where the child is and are on call 24 hours a day, seven days a week.
- They work intensively with parents and caregivers to put them in control.

- The therapist works with the caregivers to keep the adolescent focused on school and gaining job skills.
- The therapist and caregivers introduce the youth to sports and recreational activities as an alternative to hanging out.

MST has been proven to work and produce positive results with the toughest children. It blends the best clinical treatments—cognitive behavioural therapy, behaviour management training, family therapies and community psychology to reach this population. Research has shown that MST can:

- Keep children in their homes;
- Keep children in schools;
- Reduce re-arrest rates;
- Improve family relations and functioning;
- Decrease adolescent psychiatric symptoms;
- Decrease adolescent drug and alcohol use.

Nikhil Roy then briefly talked about reintegration, which is effective re-entry of a child back in the community following a custodial sentence. While planning for programmes on reintegration the aspects that need to be kept in mind include – acknowledgment of the history of the child, acknowledgement that the process is time-consuming; the approach of one-size fits all does not work, the programme has to be comprehensive and holistic and at the end results may vary.

## **2.6 (b) Atiya Bose, Director, Aangan**

Ms Atiya Bose presented her learnings from the field that highlighted their work through community centres that reach out to children and their families through techniques such as group work, family conferencing, peer referrals and building relationships and working with police stations, JJBS, etc. She said that there is a need to have more of non-institution alternatives and focus on prevention and rehabilitation. In order to increase the protective factors there is a need to assess both the systemic and personal risks, focus on family and family relationships, advocate for increase in adult attention and listen to and work with children individually. She also shared with the group the findings from a UNICEF supported study undertaken by Aangan carried out in Mumbai, which compiled responses from Probation Officers. According to the study findings 14% children thought that entry into education is worth it, after 14 years all children pressured to earn their living and contribute to the household income. Often children between 13-14 years work in the informal sector and get into criminal activity mostly because of peer relationships and pressure. 50% children experienced violence within their homes, also as witnesses to violence, existence of substance use within families and amongst children and 30-40% engaged in self-harming behaviour.

*Ms Atiya Bose emphasised that teaching children to deal with peer pressure, engaging with children to change peer dynamics, imparting life skills becomes an important preventive strategy.*

## **2.6 (c) Fr Antony Sebastian, Director, ECHO**

Fr Antony Sebastian, Director, ECHO shared his organisation's experience in implementing innovative interventions on juvenile justice that primarily focus on prevention, early intervention, rehabilitation and reintegration. ECHO has run the first Special Home managed by an NGO in the country by playing a facilitative role in bridging the gap between children, families and the community in order to rehabilitate and reintegrate CCL. The Special Home managed by ECHO has a package of interventions for reintegration that consists of the following:

- Life orientation, career guidance
- Personality development programme

- Yoga and meditation
- Counselling and guidance
- Therapeutic treatment-dance, music and theatre art
- Formal and non-formal education
- Karnataka open school (KOS-Direct 10th Exams)
- Vocational training, computer skills
- Farming
- Life skills education.

Some of the successful community service alternatives rendered by juveniles in conflict with law in lieu of other judicial remedies and penalties, include cleaning parks, getting involved with Habitat for Humanity, helping the elderly in nursing homes, helping out in the local fire/ police department, helping out in local hospitals/nursing homes, working with disabled children, etc.

From ECHO's experience it is clear that in order for NGOs to step in to support JJ implementation, the organisation or the NGO has to be recognised as a fit institution by the government. Besides, as an alternative the observation and special homes could also be opened up to NGOs who could come in and provide specific services, NGOs could work with JJBs to provide support to children, such as, psycho-social interventions, counselling, etc.

*In order for NGOs to step in to support JJ implementation, the organisation has to be recognised as a fit institution by the government. Besides, Observation and Special Homes, as well as JJBs should be open to collaboration and technical assistance with NGOs.*

### 3. Priority areas for action and intervention

The articulation of priority areas of action was based on discussions and reflections on the key concerns and challenges. Refer Table 3 for the areas of actions to address the gaps and bottlenecks along with the key partners and stakeholders identified. Strengthening the (1) functioning of JJBs and Allied Systems, (2) implementation and integration of preventive programmes within ICPS, (3) up-scaling of reforms programmes and (4) improved knowledge management were four areas of action that were identified.

**Table 3: Priority areas for action**

1. Functioning of JJBs and Allied Systems		
Concerns	Actions	Stakeholders
<b>Selection of JJB members</b>	<ul style="list-style-type: none"> <li>• District Child Protection Units (DCPU) to compile database and empanel potential candidates at district level;</li> <li>• Revisit and prepare - terms of reference for JJBs, standardise guidelines for selection with clear job description;</li> <li>• Involve JJ Monitoring Committee to monitor the selection process to ensure transparency and timeliness.</li> </ul>	<ul style="list-style-type: none"> <li>• SCPS/ DCPU and DWCD/ Department of Social Welfare (DSW);</li> <li>• DWCD/ DSW-SCPS, UNICEF technical support;</li> <li>• JJ Monitoring Committee of High Courts.</li> </ul>

<b>Capacities of JJBs</b>	<ul style="list-style-type: none"> <li>• Assessment of capacity and resource of JJBs;</li> <li>• Regular on-site monitoring and hand-holding;</li> <li>• Training and sensitization of JJBs</li> </ul> <ul style="list-style-type: none"> <li>• Identification of potential local resource organisations for regular handholding and support.</li> </ul>	<ul style="list-style-type: none"> <li>• DSW/ DWCD, SCPS, UNICEF technical support;</li> <li>• JJC, UNICEF technical support;</li> <li>• JJC, certificate distance learning course on JJ by Indira Gandhi National Open University (IGNOU); State Legal Services Authority</li> <li>• (SLSA), Judicial Academy, UNICEF technical support;</li> <li>• SCPS/ DSW/ DWCD</li> </ul>
<b>Regular and effective functioning of JJBs</b>	<ul style="list-style-type: none"> <li>• Ensure timely infrastructure, human resources and stationary support as provisioned in state/ ICPS budget;</li> <li>• Timely release of required funds from DWCD/ DSW to SCPS, from SCPS to DCPUs;</li> <li>• Direct cash transfer to DCPUs/ JJBs;</li> <li>• Organisation of district level coordination meetings on a quarterly basis;</li> <li>• Monitoring of pendency of cases and care standards in CCIs by JJ Monitoring Committee at the High Court.</li> </ul>	<ul style="list-style-type: none"> <li>• DWCD/ SCPS;</li> <li>• DWCD/ DSW;</li> <li>• DWCD/ DSW;</li> <li>• DC/DM- DCPC;</li> <li>• JJC and SCPCR</li> </ul>
<b>Police and SJPU</b>	<ul style="list-style-type: none"> <li>• Take special measures to deal with children's issues, for e.g., Jharkhand's model of establishing district level special police stations to deal with women issues that could be extended to cover children issues; district level Women's Cells in Assam could include functions of SJPU and strengthen Women and Child Desk at the Thana level in Odisha.</li> <li>• Provisioning of direct allocation of funds and infrastructure for SJPU/ Police actions on JJ Act related issues.</li> <li>• Promote linkages with civil society organisations and external networks through DCPUs</li> <li>• Periodic, practice-oriented training, mentor/resource centre to support capacities</li> <li>• Standard guidelines on SJPU</li> <li>• Transfers tenures for CWOs/SJPU required</li> </ul>	<ul style="list-style-type: none"> <li>• Department of Home, DWCD/DSW</li> <li>• DWCD/ DSW</li> <li>• DCPUs, UNICEF, CSOs, PRIs</li> </ul>
<b>Legal Aid</b>	<ul style="list-style-type: none"> <li>• Creation of a panel of legal aid professionals at JJB/ District levels for ready/ available/ effective/ timely/ free legal aid;</li> <li>• Provision of appropriate honorarium for legal aid experts;</li> <li>• Capacity development of empanelled lawyers.</li> </ul>	<ul style="list-style-type: none"> <li>• SLSA, SCPS, Law Department, UNICEF</li> </ul>
<b>2. Implementation and integration of preventive programmes within ICPS</b>		
<b>Concerns</b>	<b>Actions</b>	<b>Stakeholders</b>
<b>Absence of preventive programmes in policy and budgets</b>	<ul style="list-style-type: none"> <li>• Need for demonstrative successful models;</li> <li>• Advocacy to mainstream prevention in all policies and programmes;</li> <li>• Documentation of community based preventive models to strengthen protective environment at the community level.</li> </ul>	<ul style="list-style-type: none"> <li>• WCD, UNICEF, CSOs</li> </ul>

<b>Lack of integration with other protection structures, e.g., CWCs, open shelters, schools</b>	<ul style="list-style-type: none"> <li>• Strengthening the convergent role of DCPUs;</li> <li>• Strengthening the other protective programmes (sponsorship, foster care);</li> <li>• Establish MOUs with CSOs for implementation of preventive models;</li> <li>• Include prevention in Gram Panchayat's agenda (IEC materials &amp; campaigns).</li> </ul>	<ul style="list-style-type: none"> <li>• DCPUs, GP, DWCD, CSOs, UNICEF</li> </ul>
<b>3. Up-scaling of reforms programmes</b>		
<b>Concerns</b>	<b>Actions</b>	<b>Stakeholders</b>
<b>Absence of comprehensive programme policy on reform and budgets</b>	<ul style="list-style-type: none"> <li>• Documenting and demonstrating models in and out of country;</li> <li>• Development of national guidelines on restorative JJ.</li> </ul>	<ul style="list-style-type: none"> <li>• MWCD, Courts, UNICEF, NGOs</li> </ul>
<b>Lack of integration with protection structures and other services</b>	<ul style="list-style-type: none"> <li>• Promote/test and integrate reform models within the existing child protection preventive efforts, including across different sectors, seeking opportunities at the community.</li> </ul>	<ul style="list-style-type: none"> <li>• WCD, Courts, CSOs and other sectors</li> </ul>
<b>4. Improved knowledge management</b>		
<b>Concerns</b>	<b>Actions</b>	<b>Stakeholders</b>
<b>Absence of regular and systematic data collection (including MIS)</b>	<ul style="list-style-type: none"> <li>• Include JJ data in child track and promote standardization;</li> </ul>	<ul style="list-style-type: none"> <li>• MWCD, Home, Judiciary.</li> <li>• UNICEF</li> </ul>
<b>Lack of research on juvenile justice</b>	<ul style="list-style-type: none"> <li>• Analysis of data/trends through an annual report on juvenile justice</li> </ul>	<ul style="list-style-type: none"> <li>• MWCD</li> </ul>
<b>Absence of documentation of gaps, challenges, and good practices</b>	<ul style="list-style-type: none"> <li>• Promote dissemination of information through regular national and state newsletters.</li> </ul>	<ul style="list-style-type: none"> <li>• MWCD, State Judiciary and WCD</li> </ul>

Additional action points:

- Standardisation of training modules for capacity building activities;
- Identification and utilisation of training resource centres to support capacity building activities;
- Standardisation of selection criteria for CWOs;
- Development of district child protection plans, creation of district referral points and organisation of block level child protection committees;
- Sharing of knowledge on successful models;
- Engaging with Panchayati Raj Institutions (PRI) and civil society to strengthen community child protection environment;
- Promote the implementation of social protection schemes;
- Map vulnerable children and existing services for children at state, district levels.

### **3.1 Address by Ms Nina P Nayak, Member, National Commission for the Protection of Child Rights (NCPDR)**

Adding to the priority areas of action Nina P Nayak, Member, NCPDR further talked about the enablers that can strengthen the juvenile justice system, that include the following:

- Address the issue of delayed release of funds from the centre to the states and down to the district levels;

- Often it's the lack of knowledge on the part of especially the state governments about the programme that impacts implementation negatively, for example, funds on sponsorship taken by the Government of Rajasthan but not implemented because of the lack of knowledge about the mechanisms and strategies to implement the programme. This issue needs to be addressed.
- Linkage between NGOs and state governments could be effective in implementing programmes for children at the state and district levels;
- Use available platforms and opportunities to improve knowledge on child protection issues like the IGNOU certificate programme on child protection;
- Develop and circulate operating guidelines for JJB members at the earliest
- Ensure that CWC and JJB members undertake field visits and it's often the administrative setbacks of no travel allowance, honorariums for members of CWCs/JJBs that impact on the performance of these committees and members. Therefore there is a need to address these concerns.
- Involve and draw-in more partners in JJ implementation like Childline, which can provide solid support to child protection.
- Fully functional DCPUs is paramount to ensure services for children
- Guide JJBs to ensure systemic support and planning for children
- Better systems in place for case management, this aspect needs to improve
- There must be care planning for children
- There is total vacuum in the area of reformatory action for CCL
- Document good practices and models that have worked for e.g. Karnataka sponsorship model, Goa Children's Act, etc.
- Look at options to deal with and handle children's cases, for e.g., involving home guards, appointing women police, a viable option could be having fixed tenures for police officials as SJPU.
- Appropriate funds allocation for SJPU under ICPS and
- Notification of rules of Commissions for Protection of Child Rights (CPCR) Act in the states for better monitoring of children rights.

### **3.2 Summing Up**

Mr Joachim Theis, Chief, Child Protection, UNICEF said that the consultation was a rich learning experience and the discussions revealed a long list of actions. However he emphasised that there is a need to prioritise work since time and resources are limited. While prioritising there is a need to assess as to which actions can have the greatest impact, look at ways to change the system, address social norms, bring about effective coordination, strengthen provisioning, reinforce regular monitoring and supervision and ensure accountability.

## Annexure 1: List of Participants

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## Annexure 2: Programme Agenda

<b>Day 1: 19 March 2012</b>			
<b>Time</b>	<b>Programme</b>	<b>Chair/ Facilitator</b>	<b>Session Plan</b>
0930 – 1000	Introductory Address - <i>David McLoughlin, Deputy Representative, UNICEF India</i>  Objectives of the Learning Initiative - <i>Joachim Theis, Chief, Child Protection</i>	Facilitator: Vandhana	- Plenary
1000 – 1015	Introductions		
1015 – 1030	Expectations from the Learning Initiative	Facilitator: Tannisthna	- Open Forum
<b>1030 - 1045</b>	<b>COFFEE/TEA</b>		
1045 – 1230	Juvenile Justice: International Standards and Juvenile Justice Act in India Speakers: - <i>Nikhil Roy</i> - <i>Maharukh Adenwalla</i>	Chair: Sonykutty	- Speaker Presentations - Discussions
<b>1230 – 1330</b>	<b>LUNCH</b>		
1330 – 1500	Key Concepts: Diversion, Restorative Justice, and Alternatives to Deprivation of Liberty Speakers: - <i>Jaap Doek</i> - <i>Prof Ved Kumari</i>	Chair: Joachim	- Speaker Presentations - Discussions
<b>1500 – 1515</b>	<b>COFFEE/TEA</b>		
1515 – 1800	Administration of the JJ Act in India (focus on CCL): Challenges and Concerns - <i>5 Groups (1515 – 1630)</i> - <i>Presentations and discussions (1630 – 1800)</i>	Facilitator: Alpa  Chair: Nina Nayak	- Group Discussions - Presentations
<b>1800 - 1830</b>	<b>BREAK</b>		
1830 – 1930	Keynote Address - <i>Address by David McLoughlin, Deputy Representative, UNICEF India</i> - <i>Keynote address by Justice Madan B Lokur, Judge, Supreme Court of India</i>	Facilitator: Joachim	- Plenary
<b>1930 – 2100</b>	<b>DINNER</b>		
<b>Day 2: 20 March 2012</b>			
0900 – 1030	Innovative Interventions on Juvenile Justice Speakers: - <i>Nikhil Roy, PRI</i> - <i>Atiya Bose, Aangan</i> - <i>Fr Antony Sebastian, ECHO</i>	Chair: Dora	- Speaker Presentations - Discussions
<b>1030 – 1045</b>	<b>COFFEE/TEA</b>		
1045 – 1330	Identifying priority areas for action and intervention for UNICEF and Government - <i>5 Groups (1045 – 1215)</i> - <i>Presentations and discussions (1215 – 1330)</i> - <i>Feedback on discussions, Mr Nina Nayak, Member, NCPCR</i>	Facilitator: Aniruddha  Chair: Joachim	- Group Discussions - Presentations
1330	Closing remarks	Joachim	
<b>1330 – 1430</b>	<b>LUNCH</b>		