



WORKING OF JUVENILE JUSTICE SYSTEM IN ODISHA

Policy Paper-1

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**CENTRE FOR CHILD RIGHTS
NATIONAL LAW UNIVERSITY ODISHA**



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1. The Study

The Centre for Child Rights, specialized research unit of the National Law University Odisha, undertook a research to study the State of Implementation of the Juvenile Justice (Care and Protection of Children) Act 2000 in Odisha with generous support of UNICEF under the project on 'Effective Implementation of Children's Laws in Odisha' and in the prior knowledge of the Women and Child Development Department, Government of Odisha. The study has been commissioned as a part of the larger research engagement of the Centre for Child Rights (hereafter referred as CCR) to study, understand and document child rights practice in Odisha, especially relating to juvenile justice, child labour, child marriage, child protection and children's right to education. A research on juvenile justice was first preferred on the rationale that the findings of the study could provide critical inputs to the ongoing policy discourse on the child protection issue in the context of the introduction of Juvenile Justice (Care and Protection of Children) Bill, 2014 at the Union Parliament to repeal JJ Act, 2000. The study was conceptualized and constructed with an overall objective to explore, document and understand implementation of juvenile justice system with particular focus on the functioning statutory bodies such as Juvenile Justice Board and Child Welfare Committees, and allied system i.e. Special Juvenile Police Units, Child Care Institutions, and Legal Services Institutions etc. In order to accomplish this objective, CCR conducted field research to generate primary information in regard to operation and management of juvenile justice system apart from the desktop review of child protection laws to provide critical inputs to policy to develop strategies for the effective implementation of the JJ Act. Broadly five variables are taken into consideration to assess the status of implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 under the study. They are:

- a) Operational structure of juvenile justice mechanisms
- b) Infrastructural facilities available at the juvenile justice institutions
- c) Quality of service delivery
- d) Convergence and coordination between juvenile justice institutions and allied system
- e) Monitoring and Management

This report has been generated to provide an essential overview on the working of the juvenile justice system in Odisha and issues relating to its effective functioning. The information collected and issues identified from the field research, secondary sources and from the critical review of the current legal statue of juvenile justice are compiled and analyzed in this report. This report provides the key findings of the research in the abstract form to provide first hand information about the functioning of the JJ institutions in Odisha to inform and influence policy to take appropriate remedial measures to ensure effective implementation of Juvenile Justice



(Care and Protection of Children) Act, 2000. In another dimension this report could serve as a pathfinder to the policy makers to introspect into the infrastructure, human resources, operational, administrative, and financial related issues of the existing juvenile justice system so that appropriate policy direction shall be evolved to get rid of these issues by appropriate legal framework or any statutory guidelines to develop a vibrant and effective juvenile justice mechanisms.

This report provides an analysis of both qualitative and quantitative data on the functioning of the following statutory bodies and allied institutions of juvenile justice system, and their critical challenges and on the suggestions for effective implementation of the JJ Act.

- Juvenile Justice Boards
- Special Juvenile Police Unit
- Observation Homes
- Child Welfare Committees
- Children's Home
- District Child Protection Unit
- District Legal Services Authority



2. Juvenile Justice System: An Overview

Children's Right to Protection has received adequate expression by the Constitution of India in different provisions of the Fundamental Rights and the Directive Principles of State Policy Chapter. A number of laws, policies and programmes relating to children have been put in place over the years by both central government and state governments to fulfill the constitutional commitments towards children. One such enabling legal framework on child protection is Juvenile Justice. The first legislation on juvenile justice in India was the Juvenile Justice Act, 1986 which contemplated a uniform legal framework to provide care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the settlement of certain matters related to and disposition of delinquent juveniles. The JJ Act 1986 was repealed and the Juvenile Justice (Care and Protection of Children) Act 2000 was passed taking into consideration all the International standards prescribed as per the Convention on the Rights of the Child, the Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules), The UN Guidelines for the Prevention of Juvenile Delinquency called the Riyadh Guidelines, 1990 and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990). The JJ Act 2000 strives to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing proper care, protection and treatment by catering to their developmental needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment.

The JJ Act, 2000 deals with two categories of children, namely Juvenile in Conflict with Law (an individual under the age of 18 years who is alleged to have committed an offence) and Children in Need of Care and Protection (children from deprived and marginalized sections of society as well as those with different needs and vulnerabilities). Juvenile Justice Board is the competent authority to deal with children in conflict with law which comprises of a Principal Magistrate and two other non-judicial members. The competent authority to deal with children in need of care and protection is the Child Welfare Committee which constitutes a Chairperson and four other members. The Act provides for the establishment of various kinds of institutions such as Children's Home for the reception of child in need of care and protection, Special Homes for the reception of child in conflict with law, Observation Homes for the temporary reception of child in conflict with law during the pendency of any inquiry, and After-Care Organization for the purpose of taking care of children after they have been discharged from Children's Home or Special Home. Another area of juvenile justice is rehabilitation and social reintegration of



children in children homes and special homes through institutional and non-institutional care including adoption, foster care and sponsorship.

The juvenile justice is based upon some cardinal principles which are fundamental to the application, interpretation and implementation of the Act and the Rules (rule 3 of the Juvenile Justice (Care and Protection of Children) Rules, 2007). They are:

- 1) **Principle of presumption of innocence:** A juvenile in conflict with law is presumed to be innocent of any mala fide or criminal intent up to the age of 18 years. The basic components of the presumption of innocence are: (i) age of innocence, (ii) procedural protection of innocence, and (iii) provision of legal aid and guardian Ad Litem.
- 2) **Principle of dignity and worth:** Treatment that is consistent with the child's sense of dignity and worth is a fundamental principle of juvenile justice. The juvenile's right to dignity and worth has to be respected and protected throughout the entire process of dealing with the child from the first contact with law enforcement agencies to the implementation of all measures for dealing with the child.
- 3) **Principle of Right to be heard:** Every child's right to express his views freely in all matters affecting his interest shall be fully respected through every stage in the process of juvenile justice.
- 4) **Principle of Best Interest:** In all decisions taken within the context of administration of juvenile justice, the principles of best interest of the juvenile in conflict with law shall be the primary consideration.
- 5) **Principle of family responsibility:** The primary responsibility of bringing up children, providing care, support and protection shall be with the biological parents. However, in exceptional situations, this responsibility may be bestowed on willing adoptive or foster parents.
- 6) **Principle of safety:** At all stages, from initial contact till such time he remains in contact with care and protection system, and thereafter, the juvenile shall not be subjected to any harm, abuse, neglect, maltreatment, corporal punishment or solitary or otherwise any confinement in jails and extreme care shall be taken to avoid any harm to the protection.
- 7) **Positive Measures:** Provisions must be made to enable positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other mainstream community institutions or processes, for the purpose of promoting the well being of the juvenile through individual care plans carefully worked out.



- 8) **Principle of non-stigmatizing semantics, decisions and actions:** The non-stigmatizing semantics of the Act must be strictly adhered to, and the use of adversarial or accusatory words, such as, arrest, remand, summons, conviction, inmate, delinquent, neglected, custody or jail is prohibited in the process pertaining to the juvenile.
- 9) **Principle of non-waiver of rights:** No waiver of rights of the juvenile, whether by himself or the competent authority or anyone acting or claiming to act on behalf of the juvenile, is either permissible or valid. Non-exercise of a fundamental right does not amount to waiver.
- 10) **Principle of equality and non-discrimination:** There shall be no discrimination against a juvenile on the basis of age, sex, place of birth, disability, health, status, race, ethnicity, religion, caste, cultural practices, work, activity or behavior of the juvenile or that of his parents or guardians, or the civil and political status of the juvenile.
- 11) **Principle of right to privacy and confidentiality:** The juvenile's right to privacy and confidentiality shall be protected by all means and through all the stages of the proceedings and care and protection processes.
- 12) **Principle of last resort:** Institutionalization of a juvenile shall be a step of the last resort after reasonable inquiry and that too for the minimum possible duration.
- 13) **Principle of repartition and restoration:** Every juvenile has the right to be re-united with his family and restored back to the same socio-economic and cultural status that such juvenile enjoyed before coming within the purview of the Act.
- 14) **Principle of fresh start:** The principle of fresh start promotes new beginning for the juvenile by ensuring erasure of his past records.



3. Design of the Study

The study is a kind of explorative research to ascertain working of the juvenile justice system at the ground level to address care, protection and rehabilitation and other related issues of children in need of care and protection and juveniles in conflict with law, and to explore strategies for effective implementation of the Juvenile Justice Act in Odisha. The study would make a rapid assessment of both structural and functional efficiency, and/ or deficiencies of the juvenile justice institutions that has impacted or inhibited juvenile justice programmes. This is not a fault finding study rather it focus on promoting improved implementation of the JJ Act.

Objectives: The general objective of the study was to understand and explore the status of implementation of juvenile justice law in Odisha. However, the study has been designed and commissioned with following specific objectives:

1. To gain an understanding of the juvenile justice system and its interconnectivity with other child protection structures.
2. To understand the status of implementation of the Juvenile Justice Act in Odisha with particular focus on the functioning of the statutory bodies such as Juvenile Justice Board, Child Welfare Committees, Special Juvenile Police Units, etc.
3. To assess conditions, concerns and issues of the juveniles at the observation, special or children homes.
4. To identify challenges/gaps/bottlenecks in the implementation of the Act
5. To identify areas collaboration to foster convergence among child protection structures.

Tools: The study has been undertaken by a combination of social science and legal research methodologies. A desk top review of the Juvenile Justice (Care and Protection of Children) Act, 2000, model JJ Rules framed by the central government, Orissa JJ Rules and other consequential policy decisions or administrative guidelines relating to administration of juvenile justice was made before onset of the study to examine, understand and document the gaps that exist within the legal framework of the juvenile justice. Then the study was proceeded for consultative discussion with the statutory bodies and key stakeholders who are directly related with the administration of juvenile justice that included Juvenile Justice Boards, Child Welfare Committees, Special Juvenile Police Units, District Legal Services Authority, Child Care Institutions to understand and document juvenile justice practice, and to identify issues and challenges that are faced by the juvenile justice institutions. The study has



made use of the following methods to obtain both qualitative and quantitative information on the practice, outcomes and efficiency of the juvenile justice programme in Odisha.

- Desk review and content analysis of various policy documents, technical reports, administrative guidelines etc.
- Collect and document information from the case registers, and court records.
- Interview with the functionaries of the JJB, CWC, SJPU, DLSA, DCPUs with semi-structured interview schedule at the sampled districts.
- Direct interaction with children and staff members of child care institutions such as Observation Home, and Children's Home with semi-structured interview schedule.
- Personal observations of field researchers on the functioning of the juvenile justice institutions.
- Consultation with the Principal Magistrates of JJBs, Social Worker members of JJB, Legal Cum Probation Officers appointed under ICPS at the sidelines of different training and orientation programmes organized by the CCR at the NLUO.

Sampling: There are thirty districts in Odisha. Each and every district has Juvenile Justice Boards and Child Welfare Committees. For the purpose of this study, 6 districts are selected for extensive field investigation on the basis of the purposive sampling method. They are Jagatsinghpur, Puri, Khurda, Bhadrak, Balasore, Mayurbhanj and Ganjam. Taken together they represent demographic, and geo-political as well as socio-economic situation of Odisha.

Research Questions: The study was undertaken to seek answer to a number of questions relating to structural arrangements and operational aspects of different institutions being established under the JJ Act, 2000. Some questions are as follows:

I. Questions relating to JJBs

- i. How many Juvenile Justice Boards (JJBs) have been constituted?
- ii. How many JJBs have the required number of members?
- iii. How many of these members have received requisite training?
- iv. How many JJBs are situated at the premises of the Observation Home?
- v. What is the average number of sittings for JJBs in a week?
- vi. Infrastructural facilities available at the JJBs
- vii. How many children have been brought before the JJBs between 2012 and 2014?
- viii. Of the children brought to JJBs, how many have been released on bail?
- ix. How many children have been sent to Observation Homes?
- x. Number of cases where child is not found guilty of any offence?
- xi. Number of cases where child has been sent to Special Homes?



- xii. Number of cases where child has been sent to a place of safety?
- xiii. Number of cases where order is passed such as community service, release on probation of good conduct, fine etc?
- xiv. In how many cases, Social Investigation Report (SIR) is called for, and received from Probationary Officers?
- xv. In how many cases, JJ board has disposed the matter on the basis of the recommendation of probation officers?
- xvi. How many cases , probation supervision has been ordered and action taken by the JJ Board on the recommendation of probation officer?
- xvii. Monitoring mechanisms to oversee performance of the JJBs
- xviii. Challenges / problems faced by JJ Board

II. Questions relating to CWCs

- i. How many CWCs have been constituted?
- ii. How many CWCs have required number of members?
- iii. How many of these members have received requisite training?
- iv. How many CWCs are situated near children home?
- v. What is the average number of sittings for CWC in a week?
- vi. Infrastructure facility and support personnel available at the CWCs.
- vii. Whether any monitoring mechanism is put in place to monitor performance of the CWC?
- viii. How many children have been brought before the CWCs between 2012 and 2014?
- ix. Among children brought before CWCs, of these how many:
 - Have been restored to family?
 - Have been sent to a Children's Home?
 - Have been sent to a Specialized Adoption Agency (SAA)?
 - Are in a shelter home?
 - Have been transferred to another CWC/ State?

III. Questions relating to SJPU

- i. Number of SJPU constituted
- ii. Number of juvenile/child welfare officers designated
- iii. What are the specific roles of SJPU towards juvenile in conflict with law and for children in need of care and protection?



- iv. Number JCL/ CNCP brought before the competent authority (i. JJB and CWC) by the SJPU between 2012 and 2014.
- v. Number of children rescued by SJPU from vulnerable situation between 2012 and 2014.
- vi. Problem/ challenges faced by SJPU

IV. Questions relating to Child Care Institutions

- i. No. of child care institutions in the State
- ii. No. of CCIs not registered under JJ Act
- iii. Number of children currently staying at the CCIs in age and gender disaggregation
- iv. How many CCIs have good Infrastructure and safety standards available?
- v. How many CCIs have done risk assessment of their physical safety and formulated risk management strategy?
- vi. What are the facilities available at the CCIs for health and nutritional care, education, vocational training, recreation for the children
- vii. How many CCIs have grievance redressal mechanism?

V. Questions relating to legal service to children

- i. Mechanisms available at the District Legal Services Authority for accessing children to justice.
- ii. What kinds of legal support are provided by the DLSA for Juvenile in Conflict with Law (JCL)?
- iii. How many cases, legal support is provided to JCL by the Legal Services Authority between 2012 and 2014?
- iv. Number of empanelled lawyers available for legal service in juvenile matters.
- v. How many of these panel lawyers have received requisite training on juvenile justice?

VI. Question relating to child protection unit

- i. Number of DCPUs constituted
- ii. Number of CPUs constituted at the Block, Panchayat and Village level
- iii. What are the initiatives taken by DCPU to strengthen juvenile justice system?
- iv. Problems/ challenges faced by DCPU

To seek answers to the above questions, the Centre for Child Rights collected secondary data from the websites of the concerned department of the government and generated the required primary data base through sample survey covering JJBs, CWCs, SJPUs, DCPUs, DLSAs, Children Homes and Observation Homes.



Limitations: This report analyses the practice and problems of the juvenile justice system in Odisha based upon information, views and personal opinions gathered from various stakeholders of juvenile justice administration. Questionnaires were separately designed for various stakeholders and administered to collect necessary information for the purpose of the study. For example, questionnaires for JJB, CWC, DLSA, SJPU were developed to assess disposal rate, case pendency, follow-up supervision of juveniles discharged, rehabilitation and social re-integration strategies, legal services to children, inter-agency coordination etc so that efficiency or deficiency in the system could be analyzed and their impact on service delivery is studied. However, some data related questions posed above could not satisfactory answered because of inadequate response and in some cases non-response. Therefore it is to be noted that the present report provides an indicative status of the implementation of the Act, but not a completely evidence based or empirically tested status report.



4. Findings and Analysis

4.1: Juvenile Justice Boards

The JJ Act 2000 contemplates for constitution of Juvenile Justice Board at the district level. The Board comprises of a Metropolitan Magistrate or a Judicial Magistrate of the First Class to be designated as the principal magistrate and two social workers of whom one is a woman to form a Bench. The Bench is conferred with powers as given by the code of Criminal Procedure, 1973 on a Metropolitan Magistrate or a Judicial Magistrate First Class. There is Juvenile Justice Board for each and every district (30) in the State of Odisha. The Chief Judicial Magistrates of the respective district have been designated as the principal magistrate for the JJ Board. Based upon collected information, the following observations are made on the working of JJ Boards.

- The Board shall necessarily hold its sitting in the premises of an Observation Home or at a place in proximity to the Observation Home, or at a suitable premise of any institution run under the Act, but in no circumstances the Board shall operate within any court premises (Rule 3(9) of Orissa Rules, 2002). It is crystal clear from the law that the place where Board holds its sitting shall be child friendly, and sitting arrangement shall be uniform. It is mandatory for the board to meet all working days of a week and every member of the Board shall attend minimum of five hours per sitting. Whereas first place for Boards' sitting is at Observation Home, but it remains impractical because there are only three observation homes located at Berhampur in Ganjam district (southern region),Rourkela at Sundergarh district (western region) and Angul (central region) of the State. The place of sitting of JJBs is varied from district to district. Even Boards are functioning at the court premise which is not permissible by the law. It is revealed from the study that JJB for Puri district is placed at the rented house, JJB of Khurda district is located near District Child Protection Unit Office, and JJB of Jagatsinghpur holds its sitting at the District Court premise. Meeting of the Board takes place maximum for five days in a week. However, it was observed that sitting arrangement for principal magistrate and other two members is not parallel. The principal magistrates usually sit on the raised platform which is viewed by the non-judicial members as discriminatory to their status and position. Lack of child friendly atmosphere in room where JJ Board conducts inquires is another revelation of the study.
- Availability of quality infrastructure has direct bearing on the functioning of any system. Infrastructure to be available at the JJB, CWC, SJPU and Child Care Institutions are laid down by the Juvenile Justice (Care and Protection of Children) Rules, 2007 framed by the central government. The responsibility is given to the State Government to set up JJ Boards in every district with requisite infrastructure and personnel besides



the Principal Magistrate and Members and Finances. The model rules framed by the central government lays down that the infrastructure for JJB shall consist of a Board Room, waiting room for children, a room for principal magistrate and members, a record room, room for probation officer, waiting room for parents and visitors, safe drinking water facility and toilets. The state government is required to provide necessary human resource support including probation officer, steno-typist or computer operator, peon, safai karamchari. Further the Integrated Child Protection Scheme, launched in 2009 by the Ministry of Women and Child Development, has assured financial assistance for construction and / or maintenance grant towards constructing rooms (2- nos. of 300 sq. feet each), procuring furniture and equipments including computer, webcam, printer cum scanner, creating and maintaining a child friendly environment including painting of rooms, and indoor games, salary one Assistant cum Data Entry Operator and contingency for water, electricity, stationary etc for infrastructure improvement at the JJ boards.

Table- Infrastructure in Juvenile Justice Boards

	CUTTACK	GANJAM	JAGATSINGHPUR	KHURDA	PURI
Place where JJB is located/ sitting is held	District Court premise	District Court premises	District Court premises	Separate building near DCPU	Rented house
No. of rooms available	1	1	1	03	04
Safe record room	√	√	√	√	√
Separate room for children	X	√	√	√	√
Separate chamber for the presiding officer	√	√	√	√	√
Separate chamber for the members	X	X	X	√	X
Drinking water facility	X	X	X	√	√
Toilet facility	X	X	X	√	√
Availability of probation officer at the board	X	√	√	√	√
Availability of support staff at the board	√	√	√	√	√

Source: Field survey of CCR, NLUO, 2015

- The study reveals that the overall physical infrastructure and logistic available at the JJ Boards are inadequate or does not provide sense of child friendly environment. Majority of JJ Boards are placed at the district court premises and sittings are held at the court room of the Chief Judicial Magistrate. It is observed from the study that



boards located at the court premises are more handicapped with lack of space and minimum facilities as compared to the JJ Boards located at other places, be it be at the rented or own building.

- The proviso u/s 10 (1) of JJ Act, 2000 requires that as soon as a juvenile in conflict with law is apprehended by the police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty-four hours of his apprehension excluding the time necessary for journey, from the place where the juvenile was apprehended, to the Board. Among the districts covered in this study, number of cases reported to the Board is more at Khurda district (15-20 JCL case in a month) as compared to other district where 5-6 JCL cases are reported in a month. The study has made a critical observation that the cases relating to JCL are first recorded by the Court Sub-inspector (CSI) at the SDJM court and then forwarded to the JJ Board which is time consuming to make delay to produce juvenile at the JJ Board. Data recorded at the District Child Protection (DCPU) level and case register of JJ Board are incoherent and inconsistent with each other.
- As per the juvenile law every inquiry by the Board is necessarily to be completed within a period of four months after first summary inquiry and only in exceptional cases involving transnational criminality, large number of accused, or inordinate delay in production of witness, the period of inquiry may be extended by two months on recording of reasons by the Board. Delay beyond 4 to 6 months leads to termination of proceedings in non-serious offences. Where proceedings are delayed beyond six months on account of serious nature of offence alleged to have been committed by the juvenile, the Board shall send a periodic report of the case to the Chief Judicial Magistrate stating the reason of delay as well as steps being taken to expedite the matter. However review of pendency of JCL case by higher judicial authority is not followed up in Odisha because the peculiarity of the fact is that the CJMs who are supposed to review the pendency of the cases at the JJ Boards have been designated as the Principal Magistrate for JJ Boards. Qualitative data generated by this study through interaction with the members of JJ Boards of the sampled districts has substantiated the high pendency of the JCL cases. The factors attributed to the cause of pendency are delayed inquiry, delays in submitting social investigation report, lengthy cross examinations, inadequate sitting of board, frequent absence of juveniles at the hearing proceedings etc.

4.2. Child Welfare Committees

The Juvenile Justice Act, 2000 provides for the constitution of Child Welfare Committee for every district by the State Government. The law mandates to observe prescribed rules and



procedures including the frequency of sittings, provisions for production of child before committee or individual member, procedure for inquiry etc. The CWCs are the primary body at the district to look after the care and protection of children of vulnerable or disadvantage situations. The Committee is authorized to conduct inquiry in accordance with the provisions of this Act and shall have the final authority to dispose of cases for care, protection, treatment, development and rehabilitation of children as well as to provide for their basic needs and protection of human rights. The Committees are required to play the role of a watchdog at the district level to ensure that standards of care are maintained in all Child Care Institutions and any incident of exploitation and abuse are addressed. The CWCs are entrusted to discharge the following functions as laid down in the JJ Act, 2000 and further elaboration at Rule 25 (a) of Orissa JJ Rules.

- a) Take cognizance of the fact and receive children produced before the Committee;
- b) Decide on the matters brought before the Committee;
- c) Reach out to such children in need of care and protection who are not in a position to be produced before the Committee, being in difficult circumstances, with support from the District Child Protection Unit or State Child Protection Unit or the State Government;
- d) Conduct necessary inquiry on all issues relating to and affecting the safety and well being of the child;
- e) Direct the Child Welfare Officers or Probation Officers or NGOs to conduct social inquiry and submit a report to the Committee;
- f) Ensure necessary care and protection, including immediate shelter;
- g) Ensure appropriate rehabilitation and restoration, including passing necessary directions to parents or guardians or fit persons or fit institutions;
- h) Direct the Officer-in-Charge of children's homes to receive children requiring shelter and care;
- i) Document and maintain detailed case record along with a case summary of every case dealt by the Committee;
- j) Provide a child-friendly environment for children;
- k) Recommend 'fit institutions' to the State Government for the care and protection of children;
- l) Declare 'fit persons'
- m) Declare a child legally free for adoption;
- n) Keep information about and take necessary follow-up action in respect of missing children in their jurisdiction;

- o) Maintain and liaison with JJ Board in respect of cases needing care and protection;
- p) Visit each institutions where children are sent for care and protection or adoption at least once in three months to review the conditions of children in institutions and suggest necessary actions;
- q) Monitor associations and agencies within their jurisdiction that deal with children in order to check the exploitation and abuse of children;
- r) Coordinate with the police, labour department and other agencies involved in the care and protection of children;
- s) Liaison and network with corporate sector and non-governmental organizations for social inquiry, restoration and rehabilitation or any other as when required;
- t) Maintain a suggestion box to encourage inputs from children and adults alike and take necessary actions.

In the above context, field study was made at the CWCs of Balasore, Jagatsingpur, Khurda, Mayurbhanj and Puri district. Accordingly following observation and issues are emerged on the working of child welfare committees.

- As mandated u/s 29 (1) of Juvenile Justice Act, 2000, each State Government should constitute a CWC for every district within a period of one year from the commencement of this Act. The CWC consists of a Chairperson and four other members of whom one shall be a woman and another shall be an expert on matters concerning children. This is to be noted that all 30 districts of Odisha have CWC, but all of them are not completely composed committee. CWCs in five districts (Angul, Baragarh, Jagatsinghpur, Puri & Subranapur) are constituted with four members. There are also three members CWC at five districts, i.e Cuttack, Kalahandi, Kandhamal, Malkangiri, and Mayurbhanj.
- Committees**

Category	Percentage
Districts having full members CWC	67%
Districts having four members CWC	16%
Districts having three members CWC	17%
- Ensuring infrastructure, personnel and finance available for smooth running of CWCs is the responsibility of the state government. However the noticeable point is that the Odisha JJ Rules is skeptical about the infrastructural issues unlike the Central Rules which delineates that infrastructure at CWC shall consist of a sitting hall, separate room



for the committee, room for office staff, waiting room for the children, waiting room for parents or guardian, a room for personal interaction between child or parents and the committee, a record room, safe drinking water facility and toilets; and human resource support to CWC includes welfare officer, steno-typist or computer operator, peon and safai karmachari. In order to strengthen physical infrastructure at the CWCs, central grants are allocated under the Integrated Child Protection Scheme (ICPS) towards constructing rooms (2- nos. of 300 sq. feet each), procuring furniture and equipments including computer, webcam, printer cum scanner, creating and maintaining a child friendly environment including painting of rooms, and indoor games, salary one Assistant cum Data Entry Operator and contingency for water, electricity, stationary etc. Information generated from the survey suggest that CWC at Balasore Khurda, Mayurbhanj and Puri district is located in the premises of Children's Homes, but CWCs of Bhadrak and Jagatsinghpur district are placed distantly from children's home. The committee is provided with three rooms at Balasore, Bhadrak Jagatsinghpur, and Mayurbhanj whereas CWC of Khurda is provided with two rooms and only one room for CWC, Puri. All CWCs are provided with a Data Entry Operator as the only support staff, but neither any panel lawyers from the District Legal Services Authority nor is mental health expert available at the disposal of CWC to address psycho- legal issues of the children.

- The sitting of CWCs is held for maximum three days in a week in most of the districts. There is no uniform pattern of enquiry followed by all CWCs. It is understood that enquiry to the child has been made by CWCs in two ways. Generally, all the members sit as bench and enquire the child in the presence of protection officer/police/ family members. In some cases each member enquires a child separately and then committee takes on the file. The service of probation officers or protection officers at DCPU is hardly used by CWCs to enquire the child.
- CWC has responsibility to visit child care institutions to review the conditions of children in institutions and give necessary suggestions for quality care. Although CWCs have serious concern for inspection and monitoring of child care institutions, but they are unable to discharge this mandate due to inadequate funds to bear their travel expenses and lack of support from the DCPUs.
- There is a gap in knowledge and awareness gap among the members of CWCs about children of sexual abuse and legal provisions governing them. Although CWCs have shown concern for free legal service, victim compensation, and counseling for children of sexual abuse but their overall understanding of POCSO Act has to be perfected.
- CWCs are not sufficiently coordinated with JJBs and the wider child protection system (District Child Protection Unit, Special Juvenile Police Unit, children homes etc).



4.3. Special Juvenile Police Units

The Act contemplates constitution of a special unit of the police force called 'Special Juvenile Police Unit (SJPU) at the district level with Superintendent of Police as its head and the juvenile or child welfare officer of the rank of police inspector and two social workers to be deputed by the District Child Protection Unit or the State Government. In every police station at least one officer with aptitude and appropriate training and orientation may be designated as the 'Juvenile/Child Welfare Officer'. The SJPU and Child Welfare Officer at the police station shall handle cases of both juveniles in conflict with law and children in need of care and protection. The specific functions for SJPU are to:

- a) Coordinate and function as a watch-dog for providing legal protection against all kinds of cruelty, abuse and exploitation of children and report instances of non-compliance for further legal action.
- b) Take serious cognizance of adult perpetrators of crimes against children and ensure that they are apprehended immediately and booked under the appropriate provisions of the law.
- c) Ensure the registering, linking and monitoring of information regarding missing children received at the police station, and shall investigate immediately.
- d) Work with voluntary organizations, local governing bodies, and community-based organizations in identifying juveniles in conflict with law as well as reporting cases of violence against children, child neglect, child abuse and exploitation.
- e) Maintain a list of NGOs/voluntary organizations in their respective jurisdiction, and shall monitor the activities to prevent all crimes against children specifically trafficking, illegal adoption and detention of children.
- f) Establish and maintain contacts with experts from various fields with the right credentials for their assistance/cooperation in child related matters, as and when required.

In correspondence to proviso of section 63(3) of the JJ Act, 2000 and Rule 49 of Orissa Rules 2002, a SJPU has been created in each district with the following composition.

1. Deputy Superintendent of Police, HRPC of the District/ACP, HRPC of Police Commissionrate District as Chairman
2. Juvenile/Child Welfare Officers of all police stations coming within the jurisdiction of the district as Members
3. Two Social Workers who are attached to the District Child Protection Society of the concerned district as Members



Based on the information shared by the personnel of SJPU at the NLUO's organized consultation and on our onsite observation at few police stations, we have come out with the following observations on the working of SJPUs in Odisha.

- There is SJPU in all thirty districts of Odisha. All SJPUs are headed by Dy. Superintendent of Police of HRPC (Human Rights Protection Cell) and they are placed at the district SP office. However the designated Child Welfare Officers at the police stations are from the rank of Sub-Inspector/ ASI but not the rank of police inspector as prescribed under JJ law. It was also observed that the designated child welfare officers are holding multi-responsibility of being officer in charge of mahila and sishu desk (Women and Child Help Desk) and for law and order situation as well.
- The SJPUs are also involved with District Task Force to identify and rescue child labour as well as missing children. However it was observed there is a lack of comprehensive understanding among the personnel of SJPUs regarding their role to strengthen the child protection structure. There is complete absence of efforts from SJPUs to mobilize the support of Panchayatraj Institutions, Non-Government Organizations and Community- based organizations to identify cases of violence against children, child neglect or child abuse.
- Section 13 (b) of JJ Act 2000 stipulates that where a juvenile is arrested the officer in charge of police station or the SJPU shall provide such information to the probation officer to obtain information regarding antecedents and family background of the juveniles and other material circumstances likely to be of assistance to the JJ Board for making inquiry. It is revealed from this study that due to absence of interface between SJPU and Probation Officers, the proviso of section 13 (b) is hardly followed in practice resulting delay in submission of Social Investigation Report (SIR) and application of probation service for social reintegration of JCL.
- SJPU is not a cadre unit. Officers placed at the SJPU are frequently transferred. Police officers do not consider SJPU is the alluring position in their cadre.
- Shortage of staffs at the police stations, lack of infrastructure, and no provision for contingency fund to meet travel and other incidental expenditures of SJPUs etc. are some of the critical factors that create challenges for effective functioning of SJPUs.

4.4. Child Care Institutions

There might be child care institutions in different nomenclature are established in Odisha. But in the context of JJ Act, there would be two set of child care institutions. One is observation homes and special homes for children in conflict with law. Another is shelter home or children home for children in need of care and protection.



4.4.1 Observation Homes: Presently, there are three observations homes at Odisha located at Berhampur, Rourkela and Angul and one separate observation homes at Berhampur for girl children. This is pertinent to mention here that the observation homes located at Berhampur and Rourkela were established in the year 1986 by virtue of the Orissa Children's Act, 1982. They are managed and controlled by the Home Department, Government of Odisha. The observation home at Angul was established in the year 2013. Each observation shall admit the JCL according to the district jurisdiction of as follows.

Observation Homes in Odisha		
Angul	Berhampur	Rourkela
1. Angul	1. Malkangiri	1. Bolangir
2. Dhenkanal	2. Koraput	2. Boudh
3. Nayagarh	3. Nawarangpur	3. Baragarh
4. Cuttack	4. Rayagada	4. Sonepur
5. Jagatsinghpur	5. Kalahandi	5. Deogarh
6. Jajpur	6. Nuapada	6. Sambalpur
7. Kendrapada	7. Kandhamal	7. Keonjhar
8. Bhadrak	8. Gajpati	8. Sundergarh
9. Balasore	9. Ganjam	9. Jharsuguda
10. Mayurbhanj	10. Khurda	
	11. Puri	

Field study was made at both observation homes at Berhampur. The observation home for boys is remained at the adjacent building of circle jail, Berhampur. The dormitories available at the home could accommodate maximum 40 inmates, whereas fifty eight children were housed there between the age group of 10-18. Fifteen girl children were also housed at the Girls Observation Home. The monetary allocation towards food is Rs.1400/- and Rs.600/- for medical and sanitation expenses for each inmate per month. The monetary limit towards supply of bedding and clothing materials to each juvenile inmates of observation/ special home has been fixed at Rs.500/-. The superintendent of the home viewed that health, nutrition, education and recreational activities of children are completely taken care at the observation homes.

On the other hand it was observed that the homes do not maintain certain mandatory protocols like installation of children suggestion box, displaying child protection protocol, displaying weekly food menu chart, formation of children committee, risk management plan etc. Absence of professional support to counsel and guide the children for social mainstreaming is also noticed. Also scant attention is given to Individual care plan to identify



and address developmental needs of the children. Few suggestions were emerged to improve physical infrastructure at the home. They are:

- More education books are required for library of the home. Besides musical and play instruments like harmonium, table, carom, chess etc are required for their entertainment.
- No separate water facility is provided to the home. The present water connection has been provided from pump house of the staff quarters of vigilance department for which Boys observation home is running with lot of difficulties for water supply. Therefore, one separate bore point is necessary for the home.
- More guarding staffs are required to guard both inside and outside the home for safety and security of children.

4.4.2. Children's Home: Field study was commissioned at three CCIs namely Utkal Balashram of Puri, Sishu Ashram of Jagatsinghpur and Nehru Seva Sangh of Khurda district. These CCIs are in good shape and their performance to child care service is appreciable. However some reflections were emerged to improve quality and accountability of children's home. They are as follows:

- Absence of professional support to CCIs to deal mental health or psycho-social issues of children of special needs. There is no institution available in Odisha with modern technical facilities to cater service to the CCIs for screening and need assessment of children with special needs. There is a need to establish NIMHN's like institution in Odisha.
- Lack of quality infrastructure is another issue for children's homes. There is a need for upgradation of infrastructure as per ICPS guidelines to ensure child friendly environment at the homes.
- Skill upgradation of care givers is another need for CCIs. There must regular orientation programme to develop skills in care giving, to improve professional ethics, accountability and commitment along-with requisite knowledge and positive attitudes.
- There is a need to harness the support of the professional institutions to ensure like skills or vocational education for children staying at children's homes.
- The children homes are more inclined to institutional care. So they should be oriented to focus on non-institutional forms of rehabilitation and alternative care plan to avoid overreliance on institutional forms of care.
- Monetary allocation to CCIs is inadequate to meet the requirements of inmates. So allocation should be enhanced.



- The linkage of CCIs with District Child Protection Units and the Child Welfare Committee is not properly established or coordinated. Technology should be leveraged to enable effective management of homes, data management and for monitoring of homes.

4.5. District Child Protection Units

The 2006 amendment to JJ Act 2000 incorporated section 62 A which prescribed for constitution of Child Protection Unit at the state and district level to ensure implementation of this Act. However state government took initiative in this regard only after the introduction of the Integrated Child Protection Scheme (ICPS) by the central government in the year 2009. The constitution of District Child Protection Society was started in Odisha from 2012 and at present there is a DCPU in all thirty districts. The District Child Protection Unit (DCPU) functions under the administrative control and supervision of the District Magistrate of the concerned district. Each DCPU is headed by one District Child Protection Officer (DCPO) and other personnel for DCPU are one Legal cum Probation Officer, two Protection Officers, one Counselor, two Social Worker and three Outreach Workers. The overall responsibility of DCPU is to coordinate and implement all child rights and protection activities at the district level.

Field visits were made to the DCPUs of Jagatsinghpur, Khurda, Puri and Mayurbhanj districts. Based upon the information and opinions derived from our interaction with the DCPOs and Legal cum Probation Officers of these districts, the following observations are deduced to explain the working of District Child Protection Units in Odisha.

- DCPUs are constituted in Odisha in the year 2013, i.e. almost after four years from the launching of ICPS. All the DCPUs are lacking with full-fledged personnel as sanctioned under ICPS. Even DCPO and LPO posts are lying vacant in few districts.
- DCPUs are not able to constitute village level child protection committees to percolate the child protection structure at the communities.
- DCPUs are not able to create mechanism to assess the number of children in difficult circumstances/ vulnerable children and to develop their data base due to knowledge gap among the personnel of DCPUs and lack of technical support for data management.
- One of the key functions of DCPU is to create network and coordinate with all government departments to build inter-sectoral linkages on child protection issues. But the linkage between DCPUs and other line departments of district administration is not yet institutionalized. The importance of DCPU is not properly credited by other government officials on the consideration that the DCPU is a temporary entity and its personnel are contractual.



- The job responsibilities for Legal cum Probation Officers are not properly delineated as a result of which they do not have clear understanding about their roles and responsibilities.
- It is difficult for one DCPU to manage high populous or vast territory districts like Ganjam, Mayurbhanj, Khurda, Sundergarh etc.

4.6. Legal Services Authorities

The legal aid programme at the district level is coordinated and monitored by the District Legal Services Authority of concerned districts. As per the mandate of the Legal Services Authority Act, 1987, children are one of the constituents to entitle free legal service. Further the Supreme Court of India in the order dated 19.8.2011 in Sampurna Behura vs. Union of India & others has directed the Legal Services Authority to establish legal aid centres attached to the JJ Boards and to make available a young panel lawyers for legal aid in the JJ Boards, CWC and in different homes established under the JJ Act, 2000. In this background, interaction was held with DLSAs of Ganjam, Khurda, and Puri district and information collected thereby are hereunder analyzed.

- The Legal Services Authority has neither instituted legal aid centre at the JJ Boards nor formed panel lawyers exclusively deal children matters, but they provide lawyers to assist JCL at the Juvenile Justice Boards from the general pool of lawyers of the District Legal Services Authorities. But the legal aid lawyers of JJBs are not available at the Child Welfare Committees.
- Accessibility of legal services to children in conflict with the law, child victims, and children in need of care and protection is a concern. Community level legal awareness programme and school legal literacy campaigns being conducted by the Legal Services Authority are not viable enough to popularize legal aid programme among children.
- Due to poor coordination and lack of information sharing by police with the Legal Service Institutions, legal services are not made available to the JCL from the time of apprehension. As parents/ guardian of juveniles in conflict with law are not pre-informed about the availability of free legal service, they usually engage private lawyer instead of approaching Legal Services Authority to provide free legal service.
- The general procedures being followed by the Legal Services Authority such as submission of application by the applicant, scrutiny of the application, confirmation to provide legal service etc are not effectively worked out for children related cases. There is a need develop alternative mechanisms to reach out to children in need of legal services instead of waiting for them to approach and wait for their turn to come.
- There is a marked absence of interface between District Legal Services Authority and Juvenile Justice Institutions as well as child protection structure such as CWC, SJPU, DCPU, Child line etc.



5. Conclusion

This report has provided an overview of the working of juvenile justice system in Odisha. It has looked at the overall infrastructure, management, monitoring pattern, service delivery efficiency etc at the Juvenile Justice Boards, Child Welfare Committee, Special Juvenile Police Units, District Child Protection Units and Child Care Institutions. The role of the legal services authorities to juvenile justice is also analyzed in this document.

It is revealed from the analysis that the juvenile justice mechanisms and related child protection structures in the State of Odisha are contended with infrastructural, personnel, monetary, administrative and technical issues to cause serious challenge to the effective implementation of Juvenile Justice (Care and Protection of Children) Act, 2000. Absence of accountability and coordination gaps among the child protection structures are seen as cause and consequence of the poor management of juvenile justice system. As new trend is likely evolved in the sphere of child protection on the onset of Juvenile Justice (Care and Protection of Children) Act, 2015, it is imperative for this study to propose few suggestions with fond hope that they would be taken into consideration by the policy makers while formulating state rules for JJ Act 2015. The suggestions are as follows:


- **Separate JJ Boards from court premises:** Need to have a separate office and other infrastructure exclusively for Juvenile Justice Boards. State government should ensure that no JJ Board is functioning at the court premises.
- **Improve Infrastructure:** There is an urgent need to strengthen overall physical infrastructure at the JJBs, CWCs, SJPU and Child Care Institutions in a time bound manner.
- **Increase monetary assistance:** Timely allocation of financial grants to all the institutions of juvenile justice system should be ensured. Contingency funds shall be available at the dispensation of CWC and SJPU to meet their expenses incurred towards inspection, enquiry or any follow up monitoring.
- **Ensure required personnel:** Vacancies at the DCPUs, SJPU and any shortfall in the support personnel to JJ Boards, and Child Welfare Committee should be filled up to ensure that mandatory performance of any unit is not hampered due to shortage of staffs.
- **Ensure inter-sectoral convergence:** There is need to institutionalize mechanisms to ensure that dialogue, interface and information dissemination is made among juvenile justice system, the child protection structure and the legal service institutions. A multi-



disciplinary team should be constituted at the district level under the supervision of District Judge to guide and monitor the implementation of juvenile justice programme

- **Ensure role clarity and accountability:** State government should develop Standard Operating Procedures with clear delineation of the role and accountability of each institutions of JJ System.
- **Strengthen capacity of stakeholders:** Personnel of juvenile justice system and child protection structure should have ample knowledge about child rights and laws related to children. There should be training and orientation programme for knowledge updating, and skill building of personnel of the JJ system.
- **Develop robust database:** The lack of reliable data significantly affects the monitoring, research and advocacy to make necessary improvement of the system. What is urgently required is to develop a complete data base of children (children in different situation such as child labour, street children, homelessness children, children without parental care, children in institutional care etc). All these data including cases pending at JJ Board, CWC or Children's court should be regularly updated and available at the public domain to aid research and policy advocacy.





Centre for Child Rights was established in the year 2015 by the National Law University Odisha, Cuttack as a specialized unit to pioneer teaching, research, training and advocacy in the field of rights. The vision of the centre is to ensure justice to children and promote effective implementation of children's laws and governance in the State of Odisha. In its present engagement and with the generous support of UNICEF, Centre strives to support and strengthen child protection structure by leveraging knowledge change and policy reforms at the various levels of institutional governance to make the juvenile justice system more accountable, efficient and effective for protecting and promoting child rights

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