In the previous chapter the role of the State in the making of an adolescent as a delinquent was analysed. In almost every chapter, we have referred to the Juvenile Justice (Care and Protection), Act 2000. A major objective of this study was to examine the discrepancies, if any, between the Juvenile Justice Act in theory and the ground reality as it exists. Having done the field work in Observation Homes, it became meaningful to relook at the Act and then assess the empirical situation as it stands today. Although various provisions in the Act underline the reformatory character enshrined in it, the ground reality does not seem to be in line with most of these provisions. In the present chapter a detailed appraisal of this Act will be attempted so that a critical assessment of this Act can be made in the light of the major findings of our study making it possible to suggest some policy recommendations towards the end. It is meaningful here to refer to a very detailed and elaborate analysis of the Juvenile Justice System in India provided in an interesting study (Kumari 2004). It provides a complete assessment and history of Juvenile Justice System in India. Some of the pertinent observations made in this study have been reproduced below for the purpose of understanding the lacunae in the implementation of State policy on juvenile delinquent.

DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM IN INDIA

The history of the Juvenile justice system in India has been divided into five periods namely (a) prior to 1773; (b) 1773 – 1850; (c) 1850 – 1918; (d) 1919 – 50; and (e) post 1950.

The year 1773 marked a historical break in the Indian legal system as the Regulating Act of 1773 granted to the East India Company the powers of making laws and enforcing them on a very restricted scale. It was the Charter Act of 1833 which converted the commercial East India Company into a governing body. The period between 1773 and 1850 saw numerous
committees examining the conditions of jails in India and setting the stage for special focus on children in jails. The first legislation providing for keeping children out of jails was enacted in 1850. The report of the All Indian Jails Committee in 1919-20 led to the beginning of complete segregation of children from the criminal justice administration. Let us now examine in more detail the developments in each of these periods.

Prior to 1773

Both the Hindu and Muslim Laws had provisions for the maintenance of children. The primary responsibility to bring up children was that of parents and family. It is generally maintained that neither set of laws had any reference to juvenile delinquents. However, a cursory study of the Manusmriti (Manusmriti, Shloka 83, p. 390) and The Hedaya (p. 187) show differential punishment to children for certain offences. For example, under the hindu law, a child throwing filth on a public road was not liable for punishment but only to admonition and was made to clean it, while an adult in similar circumstances was to pay a fine and made to clean the filth. These provisions show the adoption of lesser culpability of children for their criminal activities. Moreover, children were recognized as separate entities from adults, needing special care, and protection.

1773 – 1850

The period between 1773 – 1850 began with the emergence of the East India Company as a governing body from a trading company and ended with the introduction of the first legislation relating to children. The first 'ragged school' for orphans and vagrant children in India was established in 1843, now known as the David Sasoon Industrial School in Bombay. (Chatterjee, G. 1992).

1850 – 1919

Many legislations were enacted in this period covering a wide range of matters concerning children, for example, the female Infanticide Act 1870, Vaccination Act 1880, Guardianship and Wards Act 1890 and Factories Act 1881. The Apprentices Act 1850 was enacted ‘for better enabling children, and especially orphans and poor children brought up by public charity, to
learn trades, crafts and employments, by which when they come to full age, they may gain a livelihood (Apprentices Act 1961). With the passage of time, the segregation of juveniles from adult offenders was secured within prisons by modifications in the prison code of Madras, Bombay, North Western Provinces and Bengal (Report of the Indian Jail Committee 1889, April 1889, p. 20). The idea of a reformatory school for delinquent children was in air for long and the immediate impetus for enacting the reformatory schools Act 1876 was provided by the Government of Bengal’s contemplation. These Reformatory schools were established at many places in India-Madras, Burma, Bihar, Orissa, the Central Provinces, Bombay and Delhi.

1919 – 1950

One of the most significant developments in the history of the juvenile justice system in India is the Report of Indian Jail Committee 1919-20. The Report pointed out that the ordinary healthy child criminal is mainly the product of an unfavourable environment and that he is entitled to a fresh chance under better surroundings. Therefore a child offender should be given a different treatment than an adult offender. Children with defective intellect should, after examination of their physical and mental condition, be sent to institutions specially provided to them. For young offenders that is above the age of 15 years it recommended Borstal Schools.

The Committee also drew attention to the desirability of making provisions for children who had not committed crime yet, but were living in criminal surroundings, or without proper guardians or homes. Madras had already passed the first children Act on 20 June 1920, followed by Bengal, Bombay, Delhi, Mysore, Cochin and the East Punjab Children Act 1949 etc.

Another Enactment, the Vagrancy Act 1943, also provided for the care and training of children below 14 years who lived on begging or were under unfit guardianship.

Post 1950

Various officials and non-official developments have contributed to the development of Juvenile Justice system in India. With the establishment of the Planning Commission in 1951, the Five year Plans were started and
provisions for children were made under these Plans, for example the ‘Eighth Plan’ recognized the ‘Girl Child’ as an important target group, demanding the attention of the government for her development and to fight against gender discrimination.

Similarly the thrust of the Ninth Plan is on strengthening the early joyful period of play and learning especially for girl child. The Draft Tenth Five Year Plan attempts to reach out to every child in need of care and protection and to ensure that his / her basic rights are fulfilled.

Legal Provisions

The Constitution has secured special status for children in the Indian polity since its adoption in 1950. Children figure in the chapters containing Fundamental Rights and The Directive Principles of State Policy, both of which are fundamental to the governance of the country. In addition to Fundamental Rights which children enjoy along with adults, the Constitution guarantees to children below 14 years of age that they shall not be employed to work in any factory or mine or engaged in any other hazardous employment. [Articles 39 (e) and (f) and 45 of the Constitution]. By virtue of Article 39 (f) the state is also to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that children and youth are protected against exploitation and against moral and material abandonment. Similarly Article 45 of the Constitution obligates the State to endeavour to provide free and compulsory education to all children until they complete the age of 14 years. At the time of partition there was an increase in the number of neglected and delinquent juveniles, and along with it there was also an increase in the number of Bills introduced in the Parliament for the care and protection of children, for example Children Protection Bill 1949 – 53, Prevention of Juvenile Vagrancy and Begging Bill 1952, Children Bill 1953, Women and Children Institutions Licensing Bill 1953.

Around the same time, the UN expert on Criminology and Correctional administration, Dr. W. C. Reckless, made his recommendations for progressive prison administration in India. Further impetus to enact a special
law for children was provided by the UN Declaration of the Rights of the Child in 1958.

The CA60, for the first time in India, prohibited imprisonment of children under any circumstance. It provided for separate adjudicatory bodies – a Children Court and a Child Welfare Board – to deal with delinquent and neglected children respectively. This Act introduced the system of three tier institutions namely an observation home for receiving children, a children’s home for housing neglected children, and a special school for delinquent children. However, due to a number of difficulties experienced over the years in the functioning of CA 60 led to children (Amendment) Act 1978. It permitted lawyers in the Children Court; made provisions for inter-transfer of cases and for wider community involvement through measures like a panel of social workers to assist the Children Court. However, the age below which a person is considered to be a child differed in atleast six states. West Bengal and Gujarat had prescribed 18 years for both girls and boys. In Maharasthra, Punjab and Uttar Pradesh it was 16 years for both. Difference in age led to differential treatment being given to children of the same age group residing in different States. There were also variations in the definition of delinquent and neglected child. A child whose parents were unable to take care of her/him was considered a neglected child under the CA60 but not under the Children Acts of Uttar Pradesh, Punjab, Tamil Nadu, West Bengal, Andhra Pradesh and Gujarat.

Similarly imprisonment in exceptional circumstances was permissible under the Children Act of Madras, Punjab and Uttar Pradesh while it was specifically barred under the CA60 and other Acts following it. Thus, there was a need for a uniform Children Act. However, with the adoption by the UN General Assembly of the Beijing Rules in 1985, recommendation for a uniform law in the 69th Report of the Committee on Subordinate Legislation tabled in Parliament on 12 May 1986 and the Supreme Court’s suggestion in 1986 for initiation of Parliamentary Legislation on the subject, the stage was set for bringing about uniformity in the law relating to juvenile justice all over the country. Thus Parliament enacted the Juvenile Justice Act, 1986 and brought it into force on 2 October, 1987. The Juvenile Justice Act, 1986, provided for
prohibition of confinement of children in police lock up or jail, separate institutions for the processing, treatment, and rehabilitation of the neglected and delinquent children and a vigorous involvement of voluntary agencies at various stages of juvenile justice process.

However, there were wide gaps between the cherished principles and the actual practices under the Juvenile Justice Act. Most of the States had not set up the basic infrastructure consisting of juvenile welfare boards, juvenile courts, observation, homes, juvenile homes, special homes and after care homes. A number of National Consultations were held concerning the juvenile justice administration during 1999-2000 to improve the unsatisfactory state of affairs for example, the National Consultation Meet on the Juvenile Justice System and the Rights of child held by the National Institute of Public Cooperation and Child Development, Delhi, 20-1 January 1999; National Seminar on Juvenile Justice held by Butterflies, Delhi, 8-9 April 1999 and National Consultations on Juvenile Homes held by Prayas Institute of Juvenile Justice; Delhi, 29-30 July 1999. New Lines of Thought emerged, some suggested that the law provided a satisfactory framework but needed proper implementation, while others demanded scrapping the present law and having a new one in its place.

It was with this background that a Committee was appointed under the Chairmanship of Justice Krishna Iyer to prepare a Children Code. This Committee prepared the Children’s Code Bill 2000 and presented it to the Prime Minister on 14 November 2000. The Juvenile Justice (Care and protection of Children) Bill 2000 was introduced in the Lok Sabha and Rajya Sabha, without any mention of the children’s Code Bill 2000. The JJ (C&P) Act 2000 recognizes the family of the child as a unit to deal with while dealing with children. It introduces a wide range of community placement options in terms of adoption, foster homes, shelter homes and sponsorship while imposing fine on the parents and providing counseling to the family of a child in conflict with law.

The JJ (C & P) Act consists of seventy sections contained in five chapters. Chapter-I deals with preliminary matters of title, extent, commencement, definitions and so on. Chapter-II makes provision for children in conflict with
law, while Chapter-III provides for children in need of care and protection. Chapter-IV lays down various measures for their rehabilitation and social reintegration. Chapter-V contains all other miscellaneous matters. The basic scheme of the JJ (C &P) Act remains the same as that under the JJ Act described earlier in this chapter. The following Chart 5.1 shows the scheme of the JJ (C&P) Act 2000 depicting the additional features that have been added to the basic scheme of the JJA (1986).

**CHART 5.1 – SCHEME OF THE JJ (C & P) ACT 2000**

![Diagram showing the scheme of the JJ (C & P) Act 2000]


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SALIENT FEATURES OF THE CARE AND PROTECTION OF CHILDREN
ACT, 2000

The Juvenile Justice Act was framed with the principle objectives of ensuring proper care and protection of neglected and delinquent children for their reintegration and rehabilitation in the society. Following are the main features of the juvenile justice Act which have been used and modified again in the Juvenile Justice, Care and Protection of Children Act, 2000.

The Notion of Inquiry: According to the JJ (Care and Protection Act) inquiry would continue even if the concerned person ceases to be a juvenile during the whole process of inquiry. The main reason behind this is that children cannot be given the same kind of treatment as adults because of their mental immaturity and need much greater care and attention for their delinquent acts. Therefore, at the time when the offence was committed, the person may be a juvenile, and with the passage of time he becomes an adult. In that case this principle does not hold lose as the age as recorded by the competent authority after due inquiry is deemed to be the true age of the person for the purpose of JJ (C&P) Act. Thus, the final order are not effected by the age of the person concerned, even if he becomes an adult during the course of the inquiry.

Bail – The JJ (Care and protection) Act does not distinguish between bailable and non bailable offences. Bail refusal does not depend on the nature of the offence committed in the case of juvenile delinquents. However, bail may be refused if such a release is likely to go against the children that is to bring them in moral danger or to bring them in association with known criminals. So, the main aim of the (C&P) Act is to keep these children in the community as far as possible, until and unless it becomes essential in their own interest, to be kept in an institution.

A Competent Authority:- The concept of additional care and protection is ensured by the C&P Act by providing that the Board or Committee dealing with such children should consist of such members who have special knowledge of child psychology and child welfare.
Does not reveal the Identity of Children

The Act (C&P) strictly conforms to the Beijing Rules and aims to protect the interest of a child. In order to protect the children from social glare and stigma it prohibits and punishes anything through which the identity of such children is exposed, except with the written permission of the competent authority.

Segregation from Adult offenders

The main objective behind the Juvenile Justice (Care and protection) Act is to keep these children away from the adult offenders, so it has constituted a separate Board to dispose off all the cases of delinquent children. The main idea behind the formation and establishment of specific institutions is to keep the juveniles away from the adult offenders, that is why these children are not sent to jail.

Individual Care and attention

The C&P Act emphasizes on individual care and protection of every child. Therefore at times, children may be discharged early for their education, training in useful trade or for their rehabilitation under the supervision of their parent, guardian or an authorized person. Moreover the provision of ‘after care programmes’ and the preparation of the ‘progress report’ are the various ways through which the C&P Act ensures that each child is given individual care and protection.

Active Involvement of Social Workers

The Care and Protection Juvenile Justice Act, 2000, ensures active participation of the voluntary social workers and of the community at large. The wider role given to these voluntary social workers enables the child to remain close to the society otherwise they may feel alienated and stigmatized. Therefore these social workers are made to actively participate in decision making, institutionalization and rehabilitation of these unfortunate children. It is on the basis of the cooperation of the community that these children can be reintegrated and rehabilitated in the society.

Thus, now after tracing in detail the historical sketch of the development of the Juvenile Justice system in India and primarily focusing on the salient features.
of the Juvenile Justice (Care and Protection Act, 2000), an effort will be made to evaluate it on the following grounds.

There is a complete absence of clarity in the definitions of ‘juvenile’, ‘neglected juvenile’, and ‘delinquent juvenile’ in the Act. The definition of ‘juvenile’ is sex discriminatory. The explanation given for such discrimination is not a practical one. The distinction was considered necessary as in the Indian context, girls require protection for a longer period. The Juvenile Justice Care and Protection Act, does conform to the Beijing Rules by providing the cut of age of 18 years for both boys and girls but still does not make any special provision for girls.

The Act clearly distinguishes between ‘delinquent’ and ‘neglected child’. Their labeling as delinquent or neglected by reference to the commission of an offence is purely legalistic and circumstantial. Although there is a Section 7(1) of the JJA which provides for the transfer of children between the Board and the Juvenile Court, the criterion for such a transfer has not been clearly specified. In most cases, it is the police who decides on the basis of the circumstances in which the offence was committed and the child was caught.

The divide between juveniles in conflict with law and children in need of care and protection, has been made even more rigid under the JJ (C&P) Act. The Act begins with the statement that this legislation adopts a child friendly approach but fails to even refer to all the children covered under its purview as children. Some of them are children while others are juvenile. The word ‘juvenile’ has become a value loaded term equal to delinquent child. The JJ (C&P) Act itself has used the word ‘juvenile’ in numerous sections to refer to a child either alleged or found to have committed an offence as in Sections 24, and 56-61. Section 24 is a clear example of such a perception. While making provision for penalization of persons who employ children for begging it uses both child and juvenile even though both the terms mean persons below the age of eighteen. If ‘juvenile’ indicates that child in conflict with law is also included in this Section, apparently ‘juvenile’ equals to ‘juvenile in conflict with law’. Further by referring to children suspected to have committed an offence as ‘juvenile in conflict with law’ it stigmalizes them even before they are found to have committed an offence.
The manner in which the definition of neglected juvenile has been formed does not show a clear policy. The definition of neglected juvenile is so wide that it includes almost all poor children in India within the scope of JJA. This provision might have been included in order to ensure care and protection to all children in need but it has placed untrammeled power of intervention at the disposal of the State and further it also requires much greater emphasis on community participation and non institutional treatment of children that was already provided by the JJA JJ (C&P) Act has only further expanded the definition of children in need of care and protection and has excluded child beggars from its scope.

The JJA, like the CA60, provided for elaborate administrative machinery that had little hope of survival in the coils of red tape and bureaucratic regime. Multiple specialized bodies result in the establishment of fewer agencies, increasing the geographical distance between the agency and children in need. Distance thereby becomes a cause of harassment to the children and their parents and usually alienates the institutionalized child from family and community. Therefore the JJA should have preferred a singular infrastructure, with greater emphasis on individualization and segregation within that framework. The JJ (C&P) Act has not addressed this criticism and continues to have an elaborate administrative structure.

The JJA had listed institutional and non institutional measures for dealing with children. The great numbers of children included within the JJA could neither be kept in institutions nor rehabilitated through a process of institutionalization. The JJA needed to incorporate other community based programmes and semi institutional arrangement included in the Beijing Rules. A Juvenile Guidance Bureau needed to be an integral part of the juvenile justice infrastructure for providing psychological assistance needed in most cases for rehabilitation. The JJ (C&P) Act has incorporated many more community based options but the details of such programmes has been left to be added by the rule to be framed under the Act.

The fundamental perspective of the Beijing Rules for reduced intervention and diversion was completely absent in the JJA. Various measures taken for the care and welfare of children and mothers were neither a part of the efforts of
the juvenile justice administration nor were those services coordinated, according to the patterns of neglect and delinquency among children. The JJ (C&P) Act includes parents in the provisions relating to imposition of fine and release of children after due admonition but not in the provision dealing with sponsorship.

The basic principles of fair trial and even Fundamental Rights have been given a go-by the JJ (C&P) Act. There is no mention that children before the Board and the Committee are entitled to a lawyer (as required by rules 7 and 15 of the Beijing Rules read with Rules 2 and 11 of the UN Rules for protection of Juveniles Deprived of their liberty) and that the same shall be provided by the state in all those cases where the children may be incapable of doing so on their own. The constitutional mandate of producing persons deprived of liberty before a magistrate within twenty four hours finds no place in the JJ (C&P) Act. After India signed the UN Rules for Protection of Juveniles Deprived of their liberty, deprivation of liberty means, any form of detention or imprisonment or the placement of that person in a public or private custodial setting, from which the person is not permitted to leave at will, by order of any judicial, administrative or other public authority'. Hence all children, whether in conflict with law or in need of care and protection are entitled to a lawyer if India means to fulfill its international obligations. The JJ (C&P) Act does not make any such provision. The Act does only lip service in terms of incorporating its obligations under the Indian and International law.

The JJA was silent about the use of records of child proceedings in subsequent proceedings and finger printing of children. The JJ (C&P) ct continues to be silent on finger printing.

The special schemes, provisions, principles and changes introduced by the JJA were of any consequence only if the Act was implemented properly. Though the JJA had been enacted by Parliament, the only responsibility of the Central Government vis-à-vis the Act was to notify its enforcement. The responsibility of creation of the infrastructure, for housing all categories of children in most of the places, was with the State governments. The problem of lack of funds faced by the states in implementing the Children Act has been left untouched by the JJA. The new provision relating to the welfare fund was
stated in very general terms and did not specify the nature or proportion of contribution by the State in that fund. This means that the centre has not committed itself to providing any financial assistance to the State governments for setting up the required machinery under the Act. Similar is the case under the JJ (C&P Act).

Further, all the provisions dealing with the creation of various agencies under the JJA used the word ‘may’. ‘May’ is an enabling word, which empowered but did not obligate the State governments to implement its provisions. Even in JJ (C&P) Act ‘may’ was not replaced by ‘shall’.

The JJ (C&P) Act has no answer to many questions, in fact, it leaves many questions arising out of its own provisions unanswered. For example, what is the upper limit under which a child may be kept in a children or Special Home? (Section 15). Under what circumstances can a child of seventeen years be sent to an Aftercare Home? (Section 44). Are the rights and obligations of children adopted under the JJ (C&P) Act similar to those of a natural born child? (section 41).

The police remains the primary agency for bringing children, specially those in conflict with law, within the purview of the JJ (C&P) Act. The provision enabling constitution of the Board and the Committee for a group of district coupled with the various omissions, such as production of children before a magistrate within 24 hours, prohibition against keeping them in police stations and presence of a lawyer, leave the child under the complete control of the police. The problem is further compounded as the JJ (C&P) Act provides that children not released on bail by the police officer may be kept only in observation home. An observation home, too, may be established for a district or a group of districts. Thus, either these children will remain in police stations or in observation homes that may be far away from their ordinary place of residence.

The JJ (C&P) Act uses many words without a clear delineation of their meanings or difference in operationalization of those words. The word ‘inquiry’ has been used in many sections of the JJ (C&P) Act but has not been defined. What is the difference when a child is placed under the ‘charge’ in
contradistinction with ‘care’ of a person? How is ‘apprehension by police’ different from ‘arrest’ of a child in conflict with law?

Infact, it is a Herculean task to point out all the instances of loose, vague, or contradictory drafting in the JJ (C&P) Act. Just a few provisions may be focused to illustrate the point. Section 15 (1) (g) (i) provides that a child over 17 years but less than 18 years of age shall be sent to a special school for not less than two years. It does not mention the maximum period for which such a child may be sent there. Section 33 raises questions about the procedure for dealing with children in need of care and protection. What kind of inquiry is being conducted under this Section? Who has the responsibility of conducting the inquiry? Will the nature of inquiry conducted by the Committee, a police officer, a special juvenile police unit or the designated police officer be the same? Does the term ‘social worker’ in this section refer to the probation officer? The limitation of four months within which to complete the inquiry applies only to a ‘social worker’ and child welfare officer (read police officer) and not to a committee, as the period is to be counted from the date of receipt of the order. There is no order in case the committee conducts the inquiry itself. The committee at this stage has been given the power only to ‘allow the child to remain’, in the children’s home or the Shelter home. The provisions providing for adoption, foster care or sponsorship to ensure familial care to children do not spell out who will consider the suitability of these options.

Thus, after presenting a detailed appraisal of the Juvenile Justice (C&P) Act 2000, there is no denying the fact that it presents an unprecedented challenge to all established norms and principles of legal drafting and interpretation. A petition has already been filed in the Delhi High Court challenging provisions relating to adoption, powers of local bodies, and leave of absence under the Act.

Thus the JJ (C&P) Act, though having a few redeeming features is ill conceived as it fails completely to engage with crucial conceptual questions on the area of juvenile justice. Leaving aside the question of a deeper engagement with the issues, the Law also fails to comply with existing international human rights standards, which it invokes in its Preamble.
Specifically the Convention on the Rights of the Child 1992 (sic), the Beijing Rules (1985) and UN Rules for Juveniles Deprived of their Liberty (1990) are invoked, but not internalized within the framework of the Act (Kumari, 2004).

Thus a review of the entire literature, pertaining to the Juvenile Justice Care and Protection of the Children Act and the findings of our study pinpoint a number of loopholes and weaknesses in the Act, specifically focusing on a lack of effective implementation of this Act. Our study focused on the functioning of the two Observation Homes in Punjab in Faridkot and Ludhiana districts of Punjab. In order to ensure the proper functioning of the Observation Homes, the State of Punjab provides various Juvenile Justice Rules, regarding the institutional management of the Observation Home. But the findings of the study reveal a huge gap between the theory and practice, as far as the implementation of these rules is concerned in the day to day activities of the Observation Homes. Some of these are discussed below:

- There is an acute shortage of staff for the proper implementation of the Juvenile Justice Care and Protection of Children Act, 2000. According to the norms of the Scheme, 10 posts of Probation Officers, 9 posts of Medical Officers (on contract), 10 posts of Vocational Instructors, 11 posts of B.Ed. Teachers, 8 posts of House Master/ House Mistress, 11 posts of Senior Clerks, 36 posts of Watch and Wards/ Care Taker, 9 posts of Cooks, 11 posts of sweepers, 9 posts of peons and 9 posts of Chowkidars are required which have not been sanctioned by the State Government. Therefore, it is very difficult to provide the required infrastructural and other basic facilities to the juveniles for the proper implementation of the Juvenile Justice Act.

- In Chapter – 2, of the Act, Section 8 (4), it is stated that for induction into an Observation Home, a classification of juveniles in terms of their age giving due consideration to their physical and mental status and the type of offence committed has to be made. But no such classification criteria is being followed in both the Observation Homes. Juveniles of diverse age groups were piled up together in small dingy accommodation, violating the Rules.
• The Observation Homes have been formed as rehabilitative and reformative centres, but they fail to provide even the basic necessities to the undertrials. The living conditions in both the Observation Homes are very poor, with no proper sewerage and water facility, no electricity, no playground and a very weak security system etc.

• It is mentioned in one of the Rules relating to the functioning of the Observation Home that it must issue clothing, bedding and other Articles to all the undertrials. Each juvenile shall be provided with clothing and bedding including garments, towels, jersey for winter, durry, bedsheets, blanket, pillow etc. as the scale laid down by the State Government. However, the findings of our study reveal that in both the Observation Homes the undertrials were not even provided with the basic necessities of food and clothing. Most of the undertrials had only one or two pair of clothes of their own and no clothes had been provided to them by the officials in the Observation Homes. The undertrials were not even provided with beds to sleep but rather were made to sleep on the floor with just a mat under them.

• According to one of the Rules, the Observation Home must provide entertainment and recreational facilities, such as radio, television, library, music, games etc, with a trained staff available for the purpose, but there was a complete absence of all these facilities in both the Observation Homes. Infact rather than an optimum and qualitative utilization of time involving a number of co-curricular activities, most of the time the undertrials were usually sitting idle in the ground.

• There is a Rule regarding medical care as well. It states that each institution shall provide for regular facilities for medical treatment, immunization coverage etc. However, the findings of our study reveal that in both the Observation Homes, there is no Medical Officer and whenever the undertrials approached the Superintendent to get some medicine, they were always ridiculed and at times beaten.

• One of the Rules also lays emphasis on the daily routine of these institutes. It states that each institution shall have a well regulated daily
routine, highlighting on regulated disciplined life, physical exercise, educational classes, vocational training, organized recreation, moral education etc. However, in both the Observation Homes no serious attempt is being made in this direction. Even if the authorities in these institutions take interest in providing and motivating the undertrials to participate in extra curricular activities, there is an acute shortage of material for the same. For example the Observation Home in Ludhiana, organized painting classes only twice a week as there was a shortage of drawing material for instance drawing sheets, canvas, paints etc. Similarly the books which were being provided to them were out dated and in a very bad condition.

- According to one of the requirements of Juvenile Justice Act 2000, NGDs must be involved in the reformatory process. During the field work, no such involvement of the NGOs or social workers could be found, again in violation of the Act. There was a huge gap between the officials of Observation Homes and the juveniles, with no agency bridging the gap as required by the Act.

To conclude, the Juvenile Justice Care and Protection of Children Act, 2000 has attempted only in renaming the existing institutions without any structural modifications towards improving the conditions and making it more child friendly. The Juvenile Justice Care and Protection of Children Act, 2000, though having some important redeeming features has failed to go a long way, in really answering the conceptual questions with regard to Juvenile Justice. Moreover, the Act has not been properly implemented by the State as is clearly evident from the functioning of the Observation Homes. In such a state of affairs, we cannot expect the State, to play its reformatory and rehabilitative role of erasing the label of delinquency and reforming and rehabilitating the juveniles in the way the Act prescribes.