CHAPTER 9

SURVEY OF HOMES IN DIFFERENT CITIES

9.1 Introduction

It would be interesting to begin with an outsider’s perception of the juvenile justice system in India. Erika Richard\(^\text{714}\) feels:

Juvenile justice proceedings differ notably from ordinary criminal proceedings. The room is typically occupied by the following: the three JJB members hearing the case; probation officers serving as courtroom clerks; a court reporter; a guard from the observation home; a police officer or two; possibly the victim and his or her family; and the child, sometimes with his or her family. Some districts have shifted proceedings from courthouse to observation homes; rather than make the proceedings more child-friendly, however, this simply removes trained courtroom staff from the proceedings and replaces them with (usually untrained) probation officers. These alternative proceedings do not significantly diminish the sense of formality and criminal suspension. Regardless of the location of the proceedings, the overwhelming feeling imposed on the child is that of intimidation and fear.

In the previous chapters different homes for children had already been discussed. At a glance Children in conflict with law are send to the Observation homes during the pendency of the case or bail release. It is for temporary stay. Special homes are for the children who need for reception and rehabilitation of the Juvenile. Child in need of Care and Protection are send to children homes and

Shelter homes. Children Homes are for temporary reception of the child during the pendency of any inquiry. Shelter homes function as drop-in-centres for the children in the need of urgent support.

In this chapter examines the actual situation of the homes in Delhi, the capital, where the law is generated and is always under the glare of media, in short there situation is abysmal. The main concern was to see whether the Act is being implemented in totality or just making mockery of the system.

9.2 Physical Infrastructure and Standard of Care & Facilities

Given below are some of the indispensible Rules that are mandatory to be followed by the homes and institutions for the children. Extract from the Model Rules, 2007 is apt herein below for the elucidation.

A. Physical Infrastructure

- The Observation Homes and Special Homes shall be child-friendly and it should not look like a jail or lock-up. [Rule 40(6)]

- The Observation Homes or Special Homes shall set up separate residential facilities for juvenile up to 12 years, 13-15 years and 16 years and above. [Rule16(2)]

- The institutions shall have sufficient space for every juvenile and shall include a minimum of following facilities:
  - Dormitory: 40 Sq. ft. per juvenile.
  - Classroom: 300 Sq. ft for 25 juvenile.
  - Workshop: 75 Sq. ft. per juvenile.
• Play ground: Sufficient play ground area according to the total number of juveniles in the institution. [Rule 40(5)(i)]

• Adequate lighting, ventilation, heating and cooling arrangements, safe drinking water and clean toilets shall be provided. [Rule 40(5)(iii)]

• First aid kit, fire extinguishers in kitchen, dormitories, store rooms, counselling room, periodic review of electrical installations, proper storage and inspection of articles of food stuffs, stand-by arrangements for water storage and emergency lighting shall be provided. [Rule 40(5)(iv)]

Standard of Care & Facilities

B. Sanitation and Hygiene

Every institution shall have basic facilities including the following:

• Sufficient treated drinking water;

• Sufficient water for bathing, washing clothes, maintenance and cleanliness of the premises;

• Proper drainage system and arrangements for disposal of garbage;

• Protection from mosquitoes by providing mosquito nets; annual pest control;

• Sufficient number of toilets (at least one toilet for seven children);

• Sufficient number of bathrooms in the (at least one bathroom for ten children). [Rule 42]
C. Clothing and Bedding

Clothing and bedding shall be as per the climatic conditions, more specifically as laid down in Schedule-I. [Rule 41 r/w Schedule I]

D. Meals and Diet

- The Institution shall provide four meals to the Children after preparing the menu with the help of nutritional experts or doctor.

- Every institution under this Act shall strictly adhere to the minimum nutritional standard and diet scale specified in Schedule II. [Rule 44r/w Schedule II]

E. Medical and Mental Health Care

- **Medical Record:** The Institution shall maintain a medical record of each juvenile including height, weight, sickness and treatment and other physical and mental problems. [Rule 45(b)].

- **Monthly Medical Check-Up:** There shall be monthly medical check up of juvenile and the institution shall provide necessary medical facilities including a doctor, medical equipments for minor health problems, first aid kit, stock of emergency medicines, consumables and immunization coverage. [Rule 45(c)(d)(g)].
  - *The staff shall be trained in handling first aid. [Rule 45(e)].*
  - *The Institution shall take preventive measures in the event of outbreak of contagious or infectious diseases. [Rule 45(h)].*
• **Tie-up with Local Primary Health Centre:** Institution shall tie-up with local Primary Health Centre, government hospital, medical colleges, other hospitals, clinical psychologists and psychiatrists and mental health institutes for regular visits by their doctors and students and for holding periodic health camps within the institution. [Rule 45(f)].

• **Drug Abuse Prevention and Rehabilitation Programme:** Institution shall refer such children who require specialized drug abuse prevention and rehabilitation programme, to an appropriate centre administered by qualified personnel where these programmes shall be adopted to the age, gender and other specifications of the concerned child. [Rule 45 (p)].

• **Mental Health Record:** A mental health record of every juvenile shall be maintained by the concerned institution. [Rule 46(1)]. Services of trained counsellors or psychologists or psychiatrists may be taken to provide for specialized and regular individual therapy for every juvenile. [Rule 46 (6)].

**F. Education Facilities**

• Every institution shall provide education to all juvenile, inside the institution or outside. [Rule 47 (j)]

• The institution shall make arrangement of educational opportunities with schools, non formal education institutions and from special educators. [Rule 47(2)]
- Extra coaching shall be made available to school going children in the institutions by encouraging volunteer services or tying up with coaching centers. [Rule 47(3)]

G. Vocational Training

- Every institution shall provide gainful vocational training to juveniles. [Rule 48(a)].

- The institutions shall develop networking with Institute of Technical Instruction, Jan Shikshan Sansthan, Government and Private Organization or Enterprises, Agencies or non-governmental organisations with expertise or placement agencies. [Rule 48(b)].

- The daily routine shall provide, for a regulated and disciplined life, personal hygiene and cleanliness, physical exercise, yoga, educational classes, vocational training, organized recreation and games, moral education, group activities, prayer and community singing and special programmes for Sundays and holidays. [Rule 43(2)].

9.3 Survey of Juvenile Homes, Observation Homes and Special Homes in States

Since the time the homes have been in existence they were always under the question regarding the safety of Children, their rehabilitation, education, facilities provided in the homes etc. Violence against children, their escapades as well as corruption at these homes regularly make headlines across India. The homes in Delhi, the capital, are in so bad condition that one can imagine the state of homes in other regions that are far from public and media limelight. The homes in India are run by the Government / NGO. An attempt is
made to produce the factual situation of the homes with the support of the research/reports conducted by the various organization/NGO’s who are working for the welfare of the children. Herein below the various research/reports by Government and NGO are given below:

An evaluation of the central scheme on juvenile justice in 159 institutions in nine states in 2004, conducted by CRY (Child Rights and You) and Ministry of social justice. The evolution found that only 10 percent of the sample of about 1300 children had come to the institutions on their own. The study also reveal many other lacunas of a home: children had no say over the food; schooling facilities were negligible and whenever they were going to school they walked to it; girls were never supplied any personal hygiene products; children had to take care of their own belongings and wash their own clothes; and there were neither a care plan for children nor enough staff to look after them.715

A report by Delhi Commission for Protection of Child Rights (DCPCR), 2009:

_The stench of human waste grabs you as you walk in. And from then it is all downhill - understaffed, lacking hygiene, pathetic sanitation. Inmates at the state-run juvenile homes in Delhi are “living life worse than that of animals”. This is an eye opener condition at the Asha Kiran Complex in northwest Delhi’s Rohini area._

As stated by the report, the complex lacked staff, which was not only ill-qualified to tend to the multitude of inmates’ needs but was underpaid as well. The correspondent was only allowed access to the medical and administrative blocks and not inside the cottages.

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715 CRY for Ministry of Social Justice and Empowerment, Government Of India, Unfinished Journey, Programme for Juvenile Justice. The states are: Bihar, Delhi, Karnataka, Maharashtra, Manipur, Orissa, Tamil Nadu, Uttar Pardesh and West Bengal, 2005.
The DCPCR inspection committee found gross negligence and conditions derogatory to any human rights during surprise checks at 10 homes under the Delhi government’s directorate of social welfare.

The worst condition was at the Asha Kiran Complex - which houses the Vikassini Home for Mentally Retarded (Juvenile), Pragati Institute for Severely and Profoundly Mentally Retarded Children, the Sukhanchal School and Home for Mentally Retarded Juveniles, Shashank Shekhar, DCPCR member. The inspection committee found that at the Asha Kiran complex common medical care unit, 40 children were suffering from tuberculosis, seizures, skin diseases each among others due to gross overcrowding, lack of hygiene and pathetic sanitary conditions. One child was also HIV positive, the report said.

Homes at the Ashiana and Phulwari homes for boys in Alipur, outer Delhi, housing almost half its sanctioned capacity of 107 and 300 respectively, younger boys were bullied and beaten up regularly by older boys on fixed days known as ‘kutai’. The report said corporal punishment was rampant.

The DCPCR has now begun an in-depth investigation into the affairs of the homes. There is an urgent need to overcome bureaucratic hurdles and red-tape that stall sanctioned funds. The human resource requirement should be fulfilled. Infrastructure maintenance and condition of these homes need to be reviewed systematically not on ad hoc basis as has been the case, Sushant Shekhar said, DCPCR member.

Pratidhi filed an RTI enquiry, regarding the homes. The Ministry replied on 4 August 2008, that an evaluation of all homes, government-run or NGO-run, all over the country had been carried out in 2006-07 in association with UNICEF, state governments and the
National Institute of Public Cooperation and Child Development (NIPCCD). “The Institute has been assigned the task of compilation of these reports. The work of compilation of reports is under processing and will take some time to complete”, it added. Stories of abuse abound. In November 2007, police sent a 14-year-old boy, sexually abused for six months, to the Lajpat Nagar observation home, Kasturba Niketan, where he was so verbally abused that the police had to take him back. The home officials justified their rejection by saying nobody could abuse the boy sexually as he was too dirty. Such a shame, from this incidents few question are raised like Are they trained voluntaries? Are they appointed as per the Rules specifications? Is such behaviour justified? How can we change their thought process? Do the children admitted in Homes are judged on basis of there background, cleanliness etc? The Rules 88 do specifies the duties of the Father and Mother of homes but in reality it seems they are not been followed by the caretakers. Few years back, in Majnu Ka Tila boys were locked, deprived of the essentials and abused by the officials of the Homes. It was come into limelight when, surprise visit was done by former Justice Santosh Snehi Mann, who was heading the Juvenile Welfare Board at the time.716

In the year 2008, the NCPCR inspected on 19 September the children’s home at Narela, Delhi, and found that the 110 children there were living without even basic amenities such as food, clothing and medical aid. “It is totally unacceptable that such institutions inflict violence on children, depriving them of basic human rights, chair Shantha Sinha said.717 This is despite the Delhi government claim of

716 The Hindustan Times, High Court asked Government to explain- Juvenile Homes, 26th February 2006.
spending Rs 40 -50 crore on each home. What can children do but escape?

There are several drawbacks but one of the biggest drawback of the homes is that in many states the children’s special homes and observation homes are on the same premises. Like in Delhi, the Special Home for boys is situated in Majnu Ka Tila and in 2008, the Observation home for boys was transferred to the Delhi Gate. But at Nirmal Chhaya, the observation home for girls, the special home for girls as well as the home for girl children in need of care and protection are all in the same complex. In an observation home, again children alleged to have committed serious crimes like murder are forced to sometimes coexist with children caught for petty offences, mainly because of long-drawn-out cases; there is no segregation on account of age or type of crime.

The boys are thrown together, bullying, ragging and abuse are part of everyday living in these institutions, which become like “place of crime”. Because of lack of activities – other than watching TV (mostly Bollywood films that often show violence) – like encouraging them in playing or hobbies at the homes, the children are prone to fighting. Unnecessary delay in hearing cases, lack in facilitating more vocational skills to learn, little education beyond going to school, if at all, and a general bleak outlook make them depressed and violent.

Use of Drugs in Homes

Use of drug is a common factor it is shocking but true. A qualitative study was conducted in Delhi in September 2005 in an Observation Home housing boys of 7-8 years found adolescents using a large number of drugs. Association for Development Pratidhi’s survey, for instance, found 78 per cent children suffering from
substance abuse in Delhi homes. “It’s no use denying that drug addiction is a serious problem at all the homes, government or NGO-run,” says Sanjay Joshi of Bal Sahyog. In Sewa Kutir Observation Home Kingsway Camp at time of inspection no of drugs and alcohol bottles was found. Stories of other homes are not different. The cases of availability of drugs in home are common.

In 2006, The Delhi court ordered for a survey given below is the extract from the report at glance:

The report revealed it that nearly half of the children in two state-run observation homes are addicted to alcohol, ganja, charas and intoxicating tablets. The Social Welfare Department of Delhi government came under scanner.

The report, submitted before the Juvenile Justice Board Principal Magistrate Santosh Snehi Mann on the basis of interviews with 244 juveniles lodged in the homes, found that 47.95 per cent of them had “positive addiction history”. The study also revealed that 51.28 per cent of the juveniles with positive history of substance abuse are suffering from withdrawal symptoms, which included pain, aches, dizziness, depression and insomnia. Indicating that drugs were freely available inside the observation homes, the survey said a large number of boys interviewed reported that “they could lay their hands on alcohol, ganja, charas, opium, spasmophroxyne tablets and smack at any time they want.

The Social Welfare department of the Delhi government has tried to underplay and mislead us about the problem. The report is

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shocking. It is self-explanatory about the magnitude of substance abuse amongst the juveniles. It needs immediate attention," the magistrate said. The four-member survey team, consisting of members from non-governmental organisations and Child Line officials, was constituted by the court to study and report about the extent of drug abuse among juveniles, their social background and proposed treatment and rehabilitation.

The report also said, "There seems to be significant level of sex abuse happening in the observation home in Majnu Ka Tila besides use of violence to discipline children who flout rules".

The court had taken a serious view of the Social Welfare Department's non-compliance of a direction to set up de-addiction centres at all juvenile observation homes in Delhi on the lines of the Tihar Central Jail. Nothing can be more unfortunate. The basic function of the department is to work for the welfare of the children, women and weaker Sections. Bureaucratic approach on such issues will only hamper effective rehabilitation of the juveniles, the magistrate said. The magistrate had ordered the survey after the mother of a minor boy, addicted to smack and facing trial in a theft case, told the court that his addiction had aggravated after his stay at a juvenile observation home for six months and there was no reformatory there. The court has sent the report to the high court, which is seized of a matter on the condition of juvenile homes in Delhi.

The only positive thing is that the presiding officer of JJ board are taking keen interest and working hard for the betterment of the condition of homes and children. Medical Help was taken for the de-addiction of the children and other measures are been taken for uplifting of these homes and trying to make homes better place to live.
Lack of Funds, Space And Manpower

A man runs a decent care home for 120 children in the heart of Delhi, along with a middle school anda skill-training centre offering courses accredited by the central government. He gets little funding from the state government for running the home where 90 children stay now. “Compared to a minimum cost of Rs 4000 per child per month,” he says, “the state government gives Rs 500 per child. Obviously, conditions are pathetic”. Spending level show ever may not determine conditions. In 2004-05, AFD found that for eight homes, the Delhi government had spent between Rs 2,500 and Rs 3,600 per child; close to Rs 10,000 per child was spent at the sole girls’ home. But all of them were equally badly run. At the government homes, the rooms are badly maintained, windows have broken panes, kitchens are dirty, bathrooms are leaking and a dark patch of concrete floor is the playground. Even the government doctor is not regular in his visits. Sometimes, the probation officer fills the Social Investigation Report by asking the child all the questions and not bothering to do proper research or home visit. In the girls’ home at Nirmal Chhaya in Delhi, for instance, there is one staff member to look after more than 250 children — the clerk’s post is lying vacant for three years now. There is only one teacher each for education, tailoring, and art and craft, and one irregular teacher for the useful beautician’s course. The CWC gets over 300 visits a month, and many of them end up staying. Homes for all categories of children covered by the JJCPCA are overcrowded and understaffed, thereby further shrinking the already limited space for children and hurting their right to a life with dignity. The CWC or the government care homes shouldn’t ideally turn away anybody, so they pack them in. In nine out of 14 homes in Delhi, the
number of children exceeds capacity. On one visit, 195 children were found staying in a home whose official capacity is 50.\textsuperscript{719}

HAQ Centre for Child right is an NGO, which is working for juvenile and other children. In 2007, HAQ started visiting the Sewa Kutir OHB at Kingsway Camp in Delhi, at that time there were about 250 children. Of them, about 50 were learning stitching and sewing, another 20 were making food, and some were enrolled in the non-formal classes for further study. The rest spent their time watching television. According to a report on the working of the JJ system in Delhi by AFD, “diversion of staff has adversely affected the functioning of homes, particularly rehabilitation of children, as staff such as like teachers, instructors meant to impart training are deputed to manage either stores in place of clerks or kept on night duties”. Pratidhi has used the Right to Information Act persistently and creatively to ferret information that the Delhi social welfare department tries very hard to protect, on how badly the homes are run and how the children are routinely deprived of their entitlements. The worst casualty of such mismanagement is education. There is practically no education for children in conflict with law. Even after the child offenders get bail, because of the ongoing cases, they find it very difficult to get re-admission in schools. There is little thought given to the disruption of education when the JJB gives out dates of hearing.

Institutionalization of Children is The Last Resort

Institutionalization, or committing children to homes, is both de facto and de jure the last resort under JJA. The principle of last resort in the Model Rules 2007 highlights the need for resorting to institutionalization as a temporary measure after reasonable inquiry, till other alternatives are explored, and that too for the minimum

\textsuperscript{719} A Report got form a Advocate working for juvenile.
possible duration. Section 39(1) of JJA provides that the prime objective of any institution established under JJA is protection and restoration to parents, or through adoption/ foster care. In practice, however, many innocent children end up spending much of their childhood in a condition that is akin to, or worse than, being in prison. That alone should shame lawmakers and implementing authorities into radically reviewing the condition of homes as well as the practice of banishing the children in them.

The children in institutions point to gross violations and deprivation of many basic rights: the right to liberty, right to protection and participation and other development rights such as right to education. Regarding the Narela home in Delhi, several complaints had been made about the lack of basic amenities to the Delhi government to shift the children to another home till this one was made livable before the decision was taken in late 2008 to shut it down for renovation, that too after the High Court Committee’s recommendations. Such instances are common to all kinds of homes, irrespective of their management pattern or type of inmates. Denial of access to legal aid and freedom to meet parents and guardians are other legal and human rights violations. Some homes, as a rule, get mandatory HIV tests done on children before admitting them. In the paragraph below we can see how even honest efforts get mired in red tape.

In July 2007, with the intervention of HAQ health condition of 3 boys was brought to the notice of the High Court Committee who was residing in the Kingsway Camp OHB in Delhi. The boys were suffering from tuberculosis and the need to restore them to their families. As a result of such efforts, JJB held a camp in 2008 that highlighted the need for regular healthcare services at the OHB. HAQ tried to network
with Sir Ganga Ram Hospital for such a service. The JJB and the High Court Committee discussed the issue and asked the Delhi Directorate of Social Welfare that has the administrative responsibility for ensuring implementation of the JJ law, to seek the hospital’s intervention. Irony is that instead of doing that, the Directorate wrote a letter to the hospital saying they would be happy to receive the hospital’s voluntary services. This upset the hospital authorities as they were awaiting an invitation first before they could commit to any voluntary service. On the other hand, the Directorate felt inviting the hospital would imply a tacit acknowledgement of its own inability to provide adequate health care in institutions and a need for outside intervention. The matter ended there and the High Court Committee started looking at other options.

Due to the intervention of the High Court Committee, the number of children at OHB at Kingsway Camp has come down to 55 children and the Delhi Gate OHB run by NGO Prayas has only 30-50 boys, with most of the accused now promptly released on bail. These homes have also begun a lot of activities and education for children, thanks mainly to the High Court committee’s efforts.

**Review of Operations of Observation and Children’s Homes**

**NCPCR Sub Committee Report**

The National Commission for Protection of Child Rights set up a set Sub-Committee to study the Review of Operations of Observation and Children’s Homes in the country. The key issues on the operation of JJ Homes that are highlighted in the report are:

- Slow responding & unimaginative JJ functionaries and their inability to deal with the special needs of the vulnerable children.
The inheritance of unsuitable & inflexible routine within institutions with little or no importance given to personalizing intervention at the child’s level.

Poverty of families - a deterrent to partnership with institutional functionaries in meeting needs of children.

Lack of understanding of the need to work with families and classification of children by symptoms.

Neglect of recovery and rehabilitation programmes.

Lack of resources.

Failure to make child participation an approach.

Little support for social work and social welfare professionals eager to make changes.

Weak database.

Lack of networking to tap community support services & resources.

Inter-departmental approach of bringing together all agencies involved with the care of vulnerable children unheard of.

Institutions working in isolation when there could be sharing of resources; professionals like counsellors, vocational training teachers; improving skills in childcare etc.

Attempt is to bring the actual strengths in the homes at glance in the box given below. The data has been collected under Right to Information Act. The situation is after 8 years of implementation of the Juvenile Justice Act and amendment in 2006. It is shameful situation
that numbers of the children in many homes are more than the number sanctioned. We can imagine the circumstances of homes how they must be managing with the enlarge children with inadequate food and other basic enmities.

I would like to mention here that great efforts are being done by the NGOs, Advocate who is specifically working for the welfare of the children and both the presiding officers in JJB to improve the condition in the homes. The Efforts and the improvement are just a marginal step towards the change in the conditions of home; a lot more is yet to be done.

Children in Government –run Homes In Delhi as on 1 December 2005

<table>
<thead>
<tr>
<th>Name of Homes</th>
<th>Sanctioned Strength</th>
<th>Present Strength</th>
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</thead>
<tbody>
<tr>
<td>Homes For Children In Need Of Care And Protection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Alipur Children’s Home for Boys-I</td>
<td>300</td>
<td>228</td>
</tr>
<tr>
<td>2. Alipur Children Homes For Boys-II</td>
<td>100</td>
<td>105</td>
</tr>
<tr>
<td>3. Narela Aftercare Homes for Boys</td>
<td>240</td>
<td>132</td>
</tr>
<tr>
<td>4. Lajpat Nagar Children Homes For Boys-I</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>5. Lajpat Nagar Children Homes For Boys-II</td>
<td>100</td>
<td>123</td>
</tr>
<tr>
<td>6. Children’s Home for Girls-I Nirmal Chhaya</td>
<td>100</td>
<td>200</td>
</tr>
<tr>
<td>7. After Care for Girls- II Narmal Chhaya</td>
<td>100</td>
<td>95</td>
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<tr>
<td>8. Kingsway Camp Children’s Home for Boys</td>
<td>100</td>
<td>197</td>
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<tr>
<td>Homes for Children In Conflict with Law</td>
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<tr>
<td>9. Observation Home For Girl- Nirmal Chaya</td>
<td>100 02</td>
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<tr>
<td>10. Observation Home for Boys- Kingsway camp</td>
<td>100 55</td>
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<tr>
<td>11. Prayas Observation Home for Boys-Delhi Gate</td>
<td>100 50</td>
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<table>
<thead>
<tr>
<th>Homes for Mentally Challenged Children</th>
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<tbody>
<tr>
<td>12. Vikasini Home</td>
</tr>
<tr>
<td>13. Pragati Institute</td>
</tr>
<tr>
<td>14. Sukhanchal school and Home</td>
</tr>
</tbody>
</table>

Source: Response of the Department of Social Welfare, Delhi to a query from Mr. Ravi Prakash under the Right to Information Act on 27/09/05.

The condition of the children who are unwanted by their families and mentally challenged children are worse. They are neglected, unable to get bail and dependent on the magistrate for the legal assistance, spend their entire childhood and even youth in these homes. They are not allowed to visit their parents often, only once in a week. What a pity! When case is listed the parents have to ask lawyer to write an application to meet their children. That to will be heard in front of the bench and meeting will probably be approved for only five minutes, during which parents will talk to the child from outside the
cage-like waiting room, though there is no such rule stated in the rules.

Lack of Trained Staff

One of the biggest malfunctioning in the homes is due to the lack of supervision and limited staff, combined with a lack of training, strain relations between Home staff and children. In the below box we can see the state of the staff.

<table>
<thead>
<tr>
<th>Category of Staff</th>
<th>Total Sanctioned Staff</th>
<th>Actually Working Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Welfare Officer</td>
<td>16</td>
<td>06</td>
</tr>
<tr>
<td>Care Taker</td>
<td>72</td>
<td>44</td>
</tr>
</tbody>
</table>


The boys in an observation home in Shimoga report that all but one of the staff at the home are verbally and physically abusive, and the boys and guards are mutually distrustful of the another. The guards fear the older boys, who are similar in size to guards, but the younger boys receive beatings on a regular basis. The abuse in Madivala Home, Banglore, is likewise pervasive. Human Rights watch documentation some of these abuses in a1996 report. According to the source within India juvenile justice system, the staff member described in the report as particularly abusive still works at the Home today.

Recently after long perseverance by the Supreme Court, finally we got some report/ date of different states about whether JJB, CWC established, numbers of various homes as specified under the JJCPA. In a case Sampurna Behrua v Union of India & others, filed in 2005, which is mainly talks about the non-implementation of

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the JJCPCA Act, 2000. The Act was passed as a uniform set of guidelines to ensure the correct treatment of juvenile offenders. The Constitution of India lays the responsibility on the State to ensure that all the needs of children are met and that their basic human rights are fully protected. Other rights guaranteed by the Constitution, such as right to live with dignity, the right to fair trial and to free and compulsory primary education for children below the age of 14 are also violated due to the non-implementation of the said Act.

In brief, the case mainly relates to the lack of implementation of the JJCPCA 2000 has left the status quo unchanged. The petition outlines a detailed study in twelve states of India (Punjab, Bihar, Orissa, Madhya Pradesh, Uttar Pradesh, Rajasthan, West Bengal, Maharashtra, Manipur, Gujarat, Karnataka, and Uttaranchal.), which highlighted that the JJCPCA was not being implemented. Most of these states failed to establish the following mandatory provisions: the establishment of Juvenile Justice Boards (JJB), Child Welfare Committees (CWC) and special Juvenile Police Units. The JJCPCA also requires State Governments to establish Observation Homes, Special Homes and Children's Homes, which are to provide facilities of care, treatment, education, training and ultimately restore them to a family environment. The importance of these provisions is that they afford protection of the rights of young offenders. In 2005 Human Right Law Network (HRLN) filed a petition under Article 32 of the Constitution of India, seeking the strict implementation of the Juvenile Justice (Care and Protection) Act of 2000. Upon learning that only four states (Gujarat, Orissa, Manipur, and Uttaranchal) have complied with the provisions of the Juvenile Justice Act, the Supreme Court in an order dated 3.1.2007 directed all the states to produce responses explaining their failures and the steps being taken to address them. As usual, the states hedged and delayed their reporting, perhaps
because no further attempts were made to implement the act. Fed up, the Supreme Court issued an order on 13.12.2007 to all the Chief Secretaries of the non-compliant states to hasten the responses. On 3 December 2010 few of the states filed the affidavit regarding the implementation of the Juvenile Justice Act.

Finding is (herein only the extract related to the homes is mentioned)

**West Bengal**

17 Children Homes, 26 Shelter Homes and 2 After care Homes.

**Delhi**

26 Children home run by the Government, 51 Children Homes run by the NGOs and 6 Shelter Homes run by NGOs. 2 After care Homes and fourteen SJPUs.

**Maharashtra**

60 observation homes (12 run by the Government and 48 run by NGOs, 3 special homes, 1076 children homes and 4 After care homes. As for shelter homes concern it is stated that the Government is in process of examining the matter.

**Tamil Nadu**

8 observation homes, 2 special homes, 32 children homes and 3 After care Homes. The state is legging behind compared to other states.

The case is still pending in the court and the report of other state like Punjab, Haryana, UP, Rajasthan and Assam is awaited.
Again after strict order from the Supreme Court the five more states filed affidavit on 17.1.2011 regarding their status on implementation of the Act.

**Himachal Pradesh**

There are 12 districts, has constituted 11 JJB, and CWC in all districts.

Learned counsel for the State of H.P. submitted that in the remaining one district, the JJB has not been constituted because that hill district has very sparse population and no juvenile delinquency and that if and when the State considers that district requires a JJB, it will take steps to constitute the same.

**Madhya Pradesh**

There are 50 districts in the State of M.P. The affidavit of Union of India shows that in 48 districts, the State has constituted JJBs and CWCs. Learned counsel for the State states that the remaining two districts are newly carved out districts and the State is taking steps to constitute JJBs and CWCs in these districts also within a period of four months.

**Orissa**

State has constituted JJBs and CWCs in all the thirty districts and, therefore, there is broad compliance with that requirement.

**Karnataka**

There are 30 districts in the State. The JBs are constituted only in 8 districts and in the remaining districts they are not constituted. Insofar as CWCs are concerned, we find that they are constituted in all the districts.
In view of above, the Supreme Court granted 3 months time to constitute JJB in remaining 22 districts.

**Uttarakhand**

There are 13 districts and JJB constituted in 13 districts and CWC in 9 districts.

In the above matter the Hon’ble Supreme Court gave common directions to all states. States therein that having regard to the provisions of the Act, setting up of the JJBs and CWCs is only a preliminary step. The Act contemplates setting up of Observation Homes, Special Homes, Children Home, Shelter Homes, Special Juvenile Police Units etc.

Further, setting up of JJBs and CWCs is merely following the letter instead of object and spirit of the Act that will not be sufficient. The court directed NCPCR which is already concerned with these matters, is also involved in the implementation of the provisions of the Act. Therefore, NCPCR to be impleaded as respondent.

From the above efforts of the Supreme Court we can hope positive efforts are being taken towards the uniform implementation of the act. We hope that the children of our country who are in bona fide need would get respect and all facilities they are entitled for.

**Conclusion**

With the elucidation of the juvenile homes scenario hereinbefore, it is not wrong to state that the work done by the government and the NGO are not up to the rules provide for the homes and still children fight for their rights and basic amenities. Regarding the implementation of the Act it shows that even after decade of passing of JJCPCA, 2000, the work done is insignificant. Straightforwardly, the act lack in the implementation due to many
factors some of them are like accountability concern, lack of staff, no proper procedures, many states has not even made there Juvenile justice Act and rules, lack of knowledge among the people working with homes, lack of training, power not properly entrusted etc.

The basic concern it the child who is the future of the nation if he/she is kept in homes where conditions are pathetic and no facilities than what kind of mental growth we expect from that child? As a society we expect a lot from children and the children who are delinquents we turn our face back and tell them they are good for nothing. Than why we expect them to change when we don’t accept them respectfully in our society. Basically it the individual think that need change and the implementation of the act will only be effective if the people who are entrusted with this work sincerely do there job.

The government department dealing with the children juvenile justice act should give ample amount of time and find effective ways to make the living place for children more child friendly, equip with all facilities mention underModel Rules 2007 They are human and they should be treaty with dignity and humanism. Proper / trained staff should be appointed with people who are in keen interest for uplift of children. Just writing in papers and mentioning in book will do nothing unless positive action is taken for the change in the system. It will not be out of place to show the positive work done by some people. What is important is the appropriate action by the courts and the officials assigned under the act. Recently in 2010 a case of juvenile abscond from the Chennai Kellys home came in limelight when Chief Justice intervened. Herein below the crux of the incident:

The Chief Justice M Yusuf Eqbal’s surprise visit to the juvenile home in the and his decision to take a suo motu note of a Times of India report on the escape of 18 juveniles from the home, seem to be
doing wonders for the general welfare of its inmates. The government told the Madras High Court that it has set up a six-member committee to look into the juvenile home and suggest measures to improve its security and conditions. The additional advocate-general P Wilson told the bench that the home would be completely revamped and modern facilities such as electronically operated doors and security system would be installed in the premises. "Action is being taken to remove the dilapidated doors, grills and windows and fitted with more lights and fans, segregation of children in relation to their age will also be made," a counter-affidavit filed by the social welfare and nutritious meal programme department secretary told the bench comprising chief justice Eqbal and justice TS Sivagnanam. The court was also informed that the government to constituting a committee headed by the director of social defence to go into the whole issue and take necessary measures to improve the conditions. Additional advocate-general Wilson also informed the judges that the committee would conduct a detailed inquiry into the facilities/security arrangements available at the observation home, and suggest various security measures to be taken so as to prevent escape of juveniles from the home, and on the safety of the juveniles lodged in such homes.