

Bangalore Visit – 24-25 August 2007

The team visited following institutions/agencies:

1. Visit to Children/Girl Home(s) and Interaction with Chairperson & Members of Child Welfare Committee
2. Visit to Observation Home

Functionaries of JJB and CWC met during the visit include:

1. Interaction with NGOs/Activists involved in Juvenile Justice Programme.
2. Interaction with Chairperson & Members of Child Welfare Committee.
3. Interaction with Principal Magistrate & Members of Juvenile Justice Board.

Officials met include:

1. Hon'ble Justice V. Gopala Gowda, Karnataka High Court.
2. Mr. Anwar Pasha, Director, Mr. Manjunath, Deputy Secretary & other senior officers of Department/Directorate of Women & Child Development, Government of Karnataka
3. Shri K.R. Srinivasan, DG(Police), Karnataka Police.
4. Ms Neena Nayak (09980497590), in Karnataka State Council for Child Welfare, Bangalore

OBSERVATIONS AND FINDINGS

JUVENILE JUSTICE IN THE STATE

Karnataka has 29 districts. At present there are 8 JJBs and 28 CWCs in the state. 14 more JJBs are reported to have been approved and sanctioned. While the Finance Department was reported to have turned down the proposal for 14 new JJBs, the Director, DWCD, Karnataka assured that these JJBs will be functional within six months.

While the CWCs operate from the children's homes, the sittings of the JJBs are held within the court premises, except in Bangalore.

Out of 140 members appointed to the 28 CWCs in this State, 47 are women. As far as the 8 JJBs are concerned, of the 16 social worker members, 10 are women.

Number of institutions in the State for children coming under the purview of JJ Act is as follows:

Child Care Institutions	Children's Homes recognized	Observation Homes and Special
-------------------------	-----------------------------	-------------------------------

Destitute Cottages (under the scheme of welfare of children in need of care and protection – through Zilla Panchayats)	Run by Voluntary Organisations	u/s 34(2) of JJ Act		Homes run by the Government	
		Run by the Government	Fit Institutions run by voluntary organizations	Observation Homes only	Observation cum Special Homes
330	681	19 for Girls + 27 for Boys = 46	16 recognized under the earlier Act + 16 under the 2000 Act	6	2 (The observation home next to Madivala Police Station, Hosur Road, Bangalore, is also the special home for girls. The observation home in D.C Office Compound, Dharwar is also the special home for boys.)
Source: List provided by Karnataka, DWCD					

In addition there are 4 After Care Homes only for men. The after care homes are for children in need of care and protection once they turn 18 years and still need state support for social re-integration. There is no 'place of safety' as per section 16 (1) of the Act.

Number of children present in children's homes run by the government and fit institutions run by voluntary organization as provided to the NCPCR visiting team is as follows:

	Children's Homes		Fit Institutions	Total
	Boys	Girls		
2004-05	1380	849	643	2872
2005-06	1340	882	645	2867
2006-07	1498	908	717	3123
2007-08 (Up to June 2007)	1442	912	718	3072

Karnataka being both a sending and a receiving state, it has received many children from other states who may have come there in search of employment or are run away children or trafficked. Without information on the number of children restored to their families, it is difficult to come to any conclusion on the status of children in need of care and protection in Karnataka.

As is evident from the above data, the number of children in need of care and protection in Karnataka seems to be on the rise. To add to this, data provided by the Police Department reveals that 19,106 children were reported missing from the State in the last five years (2002-2007), of which 51.5% were girls and 48.5% were boys.

So far there has been no comprehensive study to enumerate the number of children in need of care and protection and children in conflict with law in the State. Even though children in need of care and protection are a floating population, the Department agrees

that their data-base is poor and realizes that there is need to maintain some record of children and their movement. Within Karnataka, most children move from the north Karnataka districts (Raichur, Belgam, Gulbarga) to Bangalore, Mysore and other such cities and townships. Hoobly was said to be a transit point. One of the problems brought to the notice of the NCPCR team in maintaining data is that it involves about four or five departments. Karnataka DWCD is however, in the process of preparing formats for collecting data on children in need of care and protection and children in conflict with law on a monthly and quarterly basis. On 28 July, 'Missing Child Search' was launched by a child line NGO BOSCO and Karnataka DWCD.

Data on the number of children in conflict with law as obtained from the Karnataka DWCD and the Police Department is as follows:

	Karnataka DWCD – Children in Observation Homes	Police Department – Children in Conflict with law	Difference between children in conflict with law apprehended by police and children kept in observation homes
2004-05	84	66	18
2005-06	87	78	9
2006-07	105	68	37
Up to June 2007	90	46	44

It is difficult to assess the exact situation of children in conflict with law from the above data as information regarding disposal of cases by police and the JJB is missing. However, on the basis of available information, the difference between children in conflict with law apprehended by police and children kept in observation homes may be taken as reflection of poor rate of disposal of cases or lesser number of children being released on bail post 2005-06.

Disposal is directly related to the inquiry, where the Probation Officers have a critical role to play since their reports about the child's social background and circumstances is considered by the CWCs and JJBs for arriving at a decision. In a written response to questions asked by NCPCR, the State Department puts the number of Probation Officers (POs) assisting the CWCs and JJBs in inquiry and social investigation report throughout the state at 27. The response also points out that these POs work out of the children's homes. In that case how do they handle matters connected to the JJB/observation is a matter of concern.

Governments and child rights activists across the world have time and again reiterated the need for early disposal of cases involving children and insisted on alternate forms of care and protection than institutionalization.

Alternate forms of care and protection available for children in the state include foster care, sponsorship programme for placing children in the care of families, guardianship

and adoption, the Karnataka DWCD provided the NCPCR team data relating to adoption only. Moreover, despite some discussions with CWC members and other functionaries of the Department, the distinction between guardianship and foster care/adoption is not clear.

Between 2004 and up to June 2007, 31 children in the entire state are reported by the police to be abandoned. Many of them may have perhaps already been given into adoption or placed in some other form of alternate care. The number of children given in adoption in the last three years, as provided by Karnataka DWCD, is as follows:

Year	In-country	Inter-country	Total
2004-05	192	60	252
2005-06	206	52	258
2006-07	180	52	232

There are 14 adoption agencies in the State, of which 7 are recognized by CARA for inter-country adoptions and 7 for in-country adoptions. There are two scrutinizing agencies, both based in Bangalore. Since the State Department promotes adoption in a big way, its officials feel that one government run children's home in each district should become an adoption agency, though they need to be equipped with necessary training and skills to fulfill that role.

While successful adoptions are a measure of permanency planning for some children, illegal sale of children has been a matter of concern. At one point of time, Karnataka came into news for the Lambada women selling their babies. Unfortunately not much information could be obtained on the situation of adoption in the State. The NGOs met however strongly feel the need for greater scrutiny, vigilance and follow-up with respect to every adoption. With the Juvenile Justice Act now allowing dealing with adoption of not just abandoned and orphaned children but also surrendered children, the need for adequate measures to ensure proper adoption through due course of law become even greater. The NGOs also strongly feel that all surrenders should be made before the CWCs, since many cases of illegal surrenders have also come to light in the past and this paves the path for illegal adoptions.

The NGOs also suggested group foster care as another alternative that needs to be explored and tried.

Registration of child care institutions under JJ Act, as amended in 2006

Institutions providing residential care are so far registered under the OCH Act. Their registration under the JJ Act as amended in 2006 has not yet taken place. Karnataka DCWC reported that this will be done only after the JJ Rules are amended.

Advisory Board and Juvenile Justice Fund as per JJ Act

The State Advisory Board is headed by the concerned State Minister for Women and Child Development. The Director, DWCD is the Member Secretary. There are three non-official members on the State Advisory Board, of whom one (Ms. Nina Nayak) was met by the NCPCR team. There is no process of selection for the Advisory Board. Karnataka DWCD gave the names of the members to the Chief Minister and on receiving his approval, passed the necessary orders for constitution of the State Advisory Board.

At the District level, The Inspection Committees meant to be set up u/s 35 of the JJAct, work as the District level Advisory Boards. The Deputy Commissioner appoints the non-official members for the District level Advisory Board. Not much information however, could be procured on District level Advisory Boards due to time constraints.

As regards creation of the Juvenile Justice Fund required under the law, only the management board of the fund has been constituted. Karnataka DWCD has sought clarification from the Finance Department on various aspects related to the fund such as how this fund is to be operated, who is to maintain it, will there be any contribution from the Central Government and how? Etc.

State Department of Women and Child Development

The Department of Women and Child Development, Karnataka, is the nodal agency responsible for juvenile justice issues in the State. However, the Director, Mr. Anwar Pasha and other officials of the Department are of the view that their Department is overburdened. Juvenile justice is just one of the many other issues the DWCD is responsible for. There are several flagship programmes to implement such as the ICDS. Therefore, given the extent and intensity of juvenile justice issues, there should either be a separate department responsible for it or an extension with new posts and responsibilities.

The State Department (DWCD) has a budget of Rs. 10 Crore for implementation of programmes relating to juvenile justice. During 2006-07 Rs. 378.54 lakhs was allocated for destitute cottages, but the expenditure upto March 2007 was Rs. 338.98 lakhs, resulting in unspent balance of Rs. 39.56 lakh. Rs. 360 lakh were allocated for the Centrally Sponsored Scheme called the 'Programme for Juvenile Justice' and only Rs. 190.56 lakh was spent in that financial year, leaving a balance of Rs. 169.44 lakh. This scheme is for maintenance and staff salary of 14 children's homes and maintenance of all children's homes in the State. If the cost of maintenance of children is Rs. 500.00 per child, going by the number of children in all children's homes in the year 2006-07, the expense on children amounts to Rs. 15.62 lakh. One wonders if the rest (Rs. 360 lakh – Rs. 15.62 lakh = 203.85 lakh) is all for staff salaries and maintenance of the institutions because the findings from the Bangalore visit (given below) clearly point to lack of adequate staff and maintenance of homes has been done by the Public Works Department (PWD) rather than the State DWCD.

There is under-spending to the tune of Rs. 86.93 lakh even in the budget allocated for observation homes and special homes. The allocation in 2006-07 for observation homes

and special homes was Rs. 858.37 lakh and expenditure was Rs. 771.44 lakh. The budget for children's homes comes under the plan category, but that for observation homes and special homes comes under non-plan category. While all under-spending is a reflection of bad planning, bad budgeting and poor implementation, under-spending in a non-plan scheme is a clear example of callousness and lack of interest in child protection.

Ironically, despite the number of children in need of care and protection being far greater than the number of children in conflict with law, the state share of the budget for children's homes is far less than the state's budget for observation homes and special homes. Since children's homes are maintained through a Centrally Sponsored Scheme it may be assumed that the total budget for the programme for juvenile justice for Karnataka was double of Rs. 360 lakh i.e. Rs. 720 lakh in the year 2006-07, the Centre:State share being 50:50. Even then it is much less (Rs. 138.37 lakh less) than the money allocated for observation homes and special homes.

Police Department

The police are often the first people to come in contact with children in need of care and protection or children in conflict with law. Their role is hence very critical in ensuring social justice.

Some of the NGOs and social worker members of JJB in Bangalore reported that children in conflict with law are often tortured by the police. It was added that they tend to arrest children again and again. Even where children have not done anything but are associated with some criminals or were part of the group indulging in a criminal activity, they are caught by the police and brought into the JJ system. The police also tend to play around with the age of the child.

They lack sensitivity and need regular training.

Information received from the DGP office reveals that following a discussion in a meeting convened under the chairmanship of Justice V. Gopala Gowda on 9 April 2007 to discuss the problems of Juvenile Justice Board, a circular dated 12 June 2007 was issued to all the police unit officers for constituting SJPU as required u/s 63 of JJ Act, 2000. While the police department and NGOs working with SJPU in Bangalore claim that the child welfare officers have been appointed at every police station level as per the requirement of law, the Principal Magistrate of JJB in Bangalore refuted this claim. He added that there are 7000 vacancies in the police department and the police officers are not trained on how to deal with children.

A request has also been made by the DGP office through the circular dated 12 June 2007 to all police unit officers for issuing necessary instructions to investigating officers for filing proper charge sheets early. This was because in the discussions in the 9 April 2007 had pointed out that separate charge sheets against juveniles in conflict with law were not being filed where there are other adult accused involved with them, and non-filing of

proper charge sheets as well as delay in filing charge sheets was resulting in pendency of cases before the Juvenile Justice Boards.

Problems regarding non-availability of police escorts for transfer of children or their repatriation were also brought to light by the CWCs met by the NCPCR team in Bangalore.

BANGALORE

Child Welfare Committees in Bangalore

There are two Child Welfare Committees in Bangalore. One is for girls and children below six years (both boys and girls), functioning under the chairpersonship of Ms. Santosh Vaz. She assumed her office as the Chairperson of the Child Welfare Committee on 2 April 2007. Prior to her, Ms. Nina Nayak was the Chairperson.

The other CWC is for boys and its chairperson is Mr. Vasudev Sharma.

Both the Chairpersons are associated with reputed NGOs and serve their respective organizations on a full time basis.

Both the CWCs sit for two days in a week. The members get a sitting allowance of Rs. 150.00 and travel expenses @ Rs. 3.00 per km.

On an average 50-60 cases are handled by the CWCs per month.

An advocate from the Centre for Child and Law, NLSUI used to help the Committee headed by Ms. Santosh with all the legal matters.

Besides dealing with care, protection and rehabilitation issues concerning children in need of care and protection, the CWCs in Bangalore are playing a pro-active role in many ways. For example, they have been -

- Addressing the issue of child begging, particularly of Rajasthani girls put into begging by their own parents. Some two to three hundred Rajasthani families were reported to have migrated to Hoskote. They used to put their children to beg. The DWCD and the CWC initiated a drive against this and ensured that these families were put on a train back to their state.
- Opening up some old adoption cases, where the adoption took place informally, without formal legal procedures, in order to regularize these adoptions.
- Receiving and counseling children who are witnessing divorce between their parents, and are hence traumatized.

- Addressing the issue of child labour and penalizing the employers by way of getting them to compensate rescued children working for them.

CWCs are functioning with support from lots of NGOs. Child line is supporting in a very effective manner. However, support from NGOs for providing some of the services required to be provided by the state is not an example of good governance and reflects on the State's abdication of its responsibility. Often the concerned State Department (WCD in this case) mentions lack of infrastructure and resource crunch as two important reasons for not being able to implement the law effectively. However, a closer scrutiny of the budget documents clearly reflects that even what is sanctioned by way of allocation is not fully utilized. The issue therefore is that of lack of a political will to ensure children their basic rights.

JJB

There is one Juvenile Justice Board in Bangalore, which sits only one afternoon in a week – 3.00 p.m. to 5.00 p.m. There is a special order requiring the JJB to sit for two days in a week, but due to lack of staff and infrastructural facilities, they are unable to follow the order.

The Principal Magistrate (PM) is the Chief Metropolitan Magistrate (CMM). The two social worker members are associated with two NGOs, Echo and Alternate Law Forum respectively.

About 1500 cases are reported to be pending before the JJB. Some are dated year 2000 and 2002. The reasons given for this are as follows:

- Lack of staff such as typist, reader, peon etc.
- No prosecution services are available
- Chargesheets are delayed (beyond six months and sometimes even longer)
- There is no legal provision which says that cases should be closed if the chargesheet is not filed within the stipulated time
- Child's parents/guardians cannot be traced and therefore there is no one to sign the vakalatnama for the case to move forward
- There is only one JJB for four districts
- Parents are not interested in taking children back
- Social worker members of the Board have no authority to deal with the cases, they have no understanding of how to read the statutes, they don't know how to record evidence and keep the files moving
- Parents get disillusioned with adjournments and stop attending the Board's proceedings after some time. There is no provision to reimburse the travel of poor parents who have to come to the Board several times before they can get their child released.

Juvenile Justice Board

There is one Juvenile Justice Board in Bangalore, which sits only one afternoon in a week – 3.00 p.m. to 5.00 p.m. There is a special order requiring the JJB to sit for two days in a

week, but due to lack of staff and infrastructural facilities, they are unable to follow the order.

The Principal Magistrate (PM) is the Chief Metropolitan Magistrate (CMM). The two social worker members are associated with two NGOs, Echo and Alternate Law Forum respectively.

About 1500 cases are reported to be pending before the JJB. Some are dated year 2000 and 2002. The reasons given for this are as follows:

- Lack of staff such as typist, reader, peon etc.
- No prosecution services are available
- Charge sheets are delayed (beyond six months and sometimes even longer)
- There is no legal provision which says that cases should be closed if the charge sheet is not filed within the stipulated time
- Child's parents/guardians cannot be traced and therefore there is no one to sign the vakalatnama for the case to move forward
- There is only one JJB for four districts
- Parents are not interested in taking children back
- Social worker members of the Board have no authority to deal with the cases, they have no understanding of how to read the statutes, they don't know how to record evidence and keep the files moving
- Parents get disillusioned with adjournments and stop attending the Board's proceedings after some time. There is no provision to reimburse the travel of poor parents who have to come to the Board several times before they can get their child released.

The Principal Magistrate said that there is no time period stipulated in the JJ Act within which the Social Investigation Report (SIR) should be filed by the Probation Officers and hence matters get delayed, it is well within the powers of the Principal Magistrate to specify the date for submission of the SIR while making an order for SIR.

While the Board has often held discussion with the Directorate of Prosecution to provide prosecution services, it has been refused on the grounds that prosecution is required only in the case of trials and since the JJ Act talks about holding an 'inquiry' and not a 'trial', no prosecution services were required.

Case records are not properly maintained as there is no staff trained to maintain legal records. According to the Director, DWCD, Mr. Anwar Pasha, case records used to be maintained by the judiciary earlier, but now this is expected of the administration. Files were therefore transferred about six months ago and it takes time to start afresh.

Bangalore JJB members were of the opinion that the Board would be required to sit everyday for at least six consecutive months in order to clear pendency of cases. It was voiced that till such time that additional Boards are set up some ad-hoc mechanism should be put in place to deal with pendency of cases. All members of the JJB strongly feel that the Karnataka High Court needs to be requested to appoint a Judicial Magistrate of First Class (JFMC) as the Principal Magistrate of the Board. This is not only the

requirement of law but also the need as the CMM/PM has many other responsibilities. Besides regular court work, he is also the Director of Legal Services Authority.

The social workers too demand enhancement of TA/DA. At the moment they are paid Rs. 150.00 per sitting and travel is reimbursed @ Rs. 3.00 per km.

Social Investigation Report/Home study and Number of POs

While a Social Investigation report is required for a child in conflict with law before any decision can be taken, a home study is required for children in need of care and protection in order to facilitate a decision in the best interest of the child. These reports are prepared by the Probation Officers (POs) and hold a very critical value in the course of any proceedings of the JJB or CWC. It was reported by NGOs and members of the JJB that vacancies for POs were not filled up and seeking assistance from NGOs in completing social investigation/home study was not acceptable to the State Department.

There is a dispute on the number of POs appointed for the JJB. While some of the functionaries of the State Department say that two POs have been appointed exclusively for the JJB, the officials in the State Department informed that the Juvenile Service Bureau has 9 POs, of which 3 POs are for JJB alone. On the other hand, information available from the State Department on paper says that "Probation Officers working in children's homes are assisting both CWCs and JJBs in conducting inquiries and preparing social investigation reports". To add to this confusion, the Bangalore JJB members say that they have no POs for the JJB.

Ever since the law brought within its purview boys age 16-18 years also post the 2000 amendment in JJ Act, the need for personnel has increased manifold. Allegations that the State Department has no money to pay salaries and hence it does not appoint necessary and trained staff were however, refuted by the State Department. The Director, Karnataka DWCD reported that they have recently looked into the issue of appointments and dealt with it through General transfers.

Institutional care

Bangalore city has many children living in difficult circumstances, coming into the city or being forced into the city to fend for their lives. Their working and living conditions make them even more vulnerable to abuse and exploitation from the employers, the pimps, the police, people on the street, just about everybody. Amongst the children's homes in Bangalore, the reception centre or the crisis intervention centre takes in many sexually abused girls in the 12-18 years age group. In addition there is a children's home for girls and one for boys and shishu greh for the 0-6 year olds.

The situation of children's homes in Bangalore is not very different from other states. Children receive education, vocational training and health care. They live in dormitories in the government run institutions, which are fairly spacious.

The Crisis Intervention Centre – a case in point

In July 2005, a crisis intervention centre, also known as the reception centre was opened in Bangalore to receive 12-18 year old girls who are victims of immoral trafficking, child sexual abuse, child labour and child marriage. Some of the girls we met were domestic child labour sexually abused by their employers and some were girls who had eloped with their boyfriend and/or got married without their parent's consent. Prior to the establishment of this centre, such girls used to be kept in the children's home. However, the authorities felt that they were sharing their sexual experiences with other girls in the home leading to a "bad influence" on them. As informed, this CIC was started in July 2005 to "remove the bad influence the trafficked and sexually abused girls were having on other girls who are in need of care and protection". The CIC was reported to be an initiative of the then Chairperson of the Child Welfare Committee, Ms. Nina Nayak. Between July 2005-06 up to 1 August 2007, 115 girls were admitted to this CIC. Many of the girls were from other states such as Tamil Nadu, Andhra Pradesh, West Bengal, Maharashtra, Bihar, Assam, Rajasthan and Orissa.

The girls are in this centre till their inquiry is pending before the Child Welfare Committee (CWC), which may take a minimum of three months. In this short period they are not sent to a school but are instead encouraged to join some short-term vocational training programme. The courses offered to them include beauty care, kitchen gardening, mehendi application and tailoring. The beautician's course is for two and a half months. Gardening however, is not just a vocation; it is an essential part of everyday life of a girl in this centre. The girls spend their time gardening, cooking and cleaning.

The authorities in the CIC reported that a total of 90 cases were "committed" and 56 were cleared by the Committee by way of restoring them to their family or transferring them to the appropriate CWC in their native state/district. The statistics provided by the CIC on paper however suggest that about 34.8% (40 out of 115) of these girls have been rehabilitated by way of restoring them to their parents or guardian or sending them to some NGO for training and about 44.5% have been transferred.

Sometimes, on completing the age of 18 years, these girls are also married off. In one case, the CWC's intervention ensured that the girl was married off to the same boy with whom she had got married earlier without her parent's consent. Since hers was an inter-caste marriage, her parents were completely against it. Due to a case filed by her parents, she landed up in the crisis intervention centre. The Child Welfare Committee ordered her parents to keep her safely until she turned 18 years and then get her married to the boy and produce both the bride and groom before the Committee.

Details regarding transfer of girls to their respective state are as follows:

State	Girls admitted to the CIC between July 2005 and August 2007	Girls transferred between July 2005 and August 2007
Within the State	84	28
West Bengal	4	3

Bihar	2	-
New Delhi	1	1
Andhra Pradesh	10	7
Tamil Nadu	5	2
Orissa	1	1
Maharashtra	2	-
Assam	2	Not available
Rajasthan	4	Not available
Total	115	42

In addition to the above figures, 9 girls in the CIC were reported to have been transferred to NGOs.

A railway warrant is issued to enable the travel of the girl and the escort. The escort is either a staff of the crisis intervention centre or an NGO representative specifically asked to provide this service by the DWCD. A follow-up is reported to be done for up to three years in the case of girls who are from Karnataka itself by the Probation Officers (PO) available in every district. The girls therefore do not come back to the crisis intervention centre once restored.

Homes for children in conflict with law

Children in conflict with law are sent to the Observation Homes pending inquiry. THERE IS ONE Observation Home for Boys (OHB) in Bangalore covering 4 districts (plus two new districts that have been notified recently).

There is no Observation Home for girls in the whole state of Karnataka. It is said that there are very few girls in conflict with law and therefore no observation homes have been created for them. These girls are sent to the same place that is meant for adult women (the women's reception centre). The members of the Board however feel that while there are only two or three girls in conflict with law in Bangalore as on date of the visit, sometimes there are more and in any case there needs to be a separate facility for these girls even within the reception centres meant for women.

According to the Juvenile Justice Board, classification of children as required by law was lacking, except by way of providing children of different age group a separate place to sleep.

Education and vocational training for children

Education is every child's fundamental right, irrespective of the conditions in which the child lives. In fact, while in institutional care, it becomes an even greater responsibility of the state to ensure that their right to education is not denied.

The State Department of Women and Child Development (DWCD) is reported to have taken a decision to send children in need of care and protection to formal schools and in 19/90 children's homes in the state, children are already going out to formal schools.

Evidently, both formal and non-formal education is provided to children in the children's homes, except the CIC where they come only for a short period.

On the other hand, the situation of children in conflict with law needs attention as they are not allowed to go to a school and besides some short-term vocational training programmes there are no provisions for school education inside the observation homes. This is true of most states.

About one and a half months back, a nine year old came into the observation home in Bangalore under charges of murder. This child was going to school and is said to have strangulated a classmate of his to death in a fight over a pencil. While the case is pending inquiry, the child is in the observation home and his education has discontinued. The Principal Magistrate is not in favour of releasing the child.

Counseling

If every child in the juvenile justice system is the responsibility of the State, individual care plans and counseling should become an essential part of child welfare initiatives meant for such children. Counseling requires both time and trained personnel, which as of now is not adequately available in the children's homes as well as the observation homes.

Only the CIC reported that counseling is provided to every girl through a full-time counselor (MSW) appointed by the DWCD and counselors from some NGOs on Tuesdays and Saturdays. The government counselor has been appointed for eight institutions at a salary of Rs. 8000.00 and hence she comes in only on Saturday afternoon. The NGO counselors come on Tuesdays and Saturdays. They are from three NGOs, namely, Life Trust, Oasis, Prison Ministry of India.

There are 14 psychiatric patients in the children's home for girls. It is assumed that a person with a Master's Degree in Social Work (MSW) is also a counselor if they have studied psychology. However, the counseling needs of every individual child in the system cannot be addressed through MSWs.

Counseling was said to be required even while placing a child in adoption/foster care in order to ensure that the child does not develop adjustment disorders.

Karnataka Legal Services Authority is willing to support the cost of volunteer counselors. NIMHANS needs to be tapped by the State Department for making volunteer counselor's available. Ms. Shoba Srinath of NIMHANS assured the NCPCR that NIMHANS is willing to empower DWCD functionaries with skills on how to deal with children. She was of the view that all promotions of concerned functionaries should depend on the

skills acquired by them, trainings undergone and number of refresher courses attended. She stressed that the place where children live should be therapeutic in itself by ensuring a conducive ambience and environment necessary for the growth and development of children, both those in need of care and protection and those in conflict with law. In a meeting called by the Minister, NIMHANS had offered training opportunities for DWCD functionaries and they are open to link up with the Department in this regard. They just require a letter from DWCD referring to that meeting and seeking training inputs from NIMHANS. As regards volunteers counselors, Ms. Srinath suggested that students from colleges such as the Mont Ford College of Counselling can be approached to provide voluntary service and KLSA can pay them a little honorarium by way of covering their travel costs. She further asked the DWCD official accompanying the visiting NCPCR team to also meet Dr. K. Shekhar (Ex-HOD, Psychiatric Social Work Department, NIMHANS) and Dr. R. Parthasarathy, HOD of Psychiatric Social Work Department, NIMHANS for volunteer counselors.

The tie-up between Karnataka DWCD, NIMHANS and KLSA can meet the meet for counseling services.

Legal Aid for Children

Two lawyers from the Human Rights Law Network (HRLN) have been providing free legal aid to some children in conflict with law in Bangalore. The NGO Echo too provides legal aid to children.

An advocate from the Centre for Child and Law, NLSUI used to help the CWC headed by Ms. Santhosh Vaz with all the legal matters.

Transfer and restoration to other states

“A girl from Ajmer has been in the girls’ home for 12 months. Now she has come to terms with it. There is no one to trace her family”

“One boy has address written on his arm, but no one to escort him back”

“ CWC Patna refused to keep a child transferred to them from Bangalore because they discovered that the child belonged to Nepal. They wanted to send the child back to Bangalore”

- Members of Child Welfare Committees, Superintendent of Homes, Probation Officers and other functionaries

Functionaries in the institutions reported the following obstacles in ensuring transfer of children and their repatriation to their places of origin:

Lack of finances to meet the cost of travel of the child and the escort

Lack of support from the police by way of availability of police escorts

Success in tracing children's families depends on individual contacts of the members of Child Welfare Committee. It is not institutionalized.

While transfer of girls in the CIC was reported to be smooth with the help of an escort, that did not seem to be the case for boys or girls in other care institutions. Many boys were reported by the boys' home to be languishing there for want of a police escort. Also, while the girls in the CIC were reported to be escorted either by a staff of the CIC or an NGO escort, in the case of other children, police escort seemed to be a necessity.

Infrastructure

The institutions visited looked fairly newly painted and well maintained. On inquiring further it was revealed that the buildings have been renovated about a year ago by the Public Works Department (PWD). The State Department does not seem to have adequate resources for development and maintenance of buildings and infrastructure.

A constant complaint from members of the JJB, particularly the Principal Magistrate was that there are no infrastructural facilities and staff for the JJB, which is given a hall within the premises of the observation home for boys to operate from. This was also reported to be one of the reasons for not being able to maintain records and hold the proceedings more frequently for early disposal of cases.

State does not have adequate finances to meet the infrastructure requirement. It was pointed out that the State DWCD had sanctioned 14 new JJBs but the Finance Department had rejected the proposal and hence there was no money to set up the additional JJBs.

Staffing

On the issue of posts lying vacant, it was pointed out that up to the level of Jt. Director, promotions can be given within one month. Lower level posts can be outsourced by the Finance Department.

DWCD has 7000 staff strength. Staffing for juvenile justice is being looked into and addressed by way of general transfers of persons interested to work on child protection on juvenile justice issues.

Training

Most Magistrates were reported to be unaware of the Juvenile Justice Act. Three workshops and seminars were conducted for judges by the State Judicial Academy last year. The Principal Magistrate of the JJB has attended a training programme organized by the National Judicial Academy, one by NHRC and one more which he was unable to recall. A consultation too was held for sensitization of the judiciary by the National Trust along with the Legal Department. Yet a lot needs to be done to ensure that the magistrates and judges are aware of the JJ Act and understand it well.

As regards the CWC members and the social worker members on the Juvenile Justice Board, all learning is reported to be on the job. One of the social worker members also reported that UNESCO organizes some training but that is not sufficient. The previous CWC seems to have called the new members of the CWC before the end of its term to witness the CWC proceedings and learn from it. This has indeed been a good practice in Bangalore.

Not only is there a need for greater clarity on roles and responsibilities, there is a constant need for updating the understanding and application of laws related to children, particularly the Juvenile Justice Act.

Equally important is the training of all officers and functionaries that are part of the State Department of Women and Child Development, since DWCD is the nodal department. Some officials in the department admit that a child-friendly approach is lacking in their staff. Details of training for staff are promised to be provided by the Department through e-mail.

Training of police is also essential and it was pointed out that juvenile justice has to be integrated into the curriculum of the police training schools as one full fledged, separate and distinct subject and it should be compulsory for all under-trainees to clear the examination paper on juvenile justice before they can be recruited. The Police Academy should also hold trainings for officer rank police personnel.

Special Juvenile Police Unit (SJPU)

There is a SJPU in every district. Three NGOs - Echo, Bosco and APSA have taken the lead in Bangalore on ensuring establishment of SJPUs in three divisions i.e. East and Centre (Echo), South East (APSA) and South (Bosco). They are closely assisting the SJPUs in rescue operations, home inquiry and rehabilitation of rescued children. Echo has rehabilitated 50 children by training them as traffic control police and tying up with the traffic police for temporary or permanent placement. These SJPU lead organizations are also either members of the Child Welfare Committee or the Juvenile Justice Board.

Drugs and substance abuse

Many children in need of care and protection and those in conflict with law are victims of drugs and substance abuse. Erases has become a menace. Various reports of NIMHANS suggest that gutka, Fevibond, petrol, glue, mixing paracetamol with coffee etc. are some of the other most common forms of substance abuse.

However, the institutions under the JJ Act are not equipped to deal with drugs and substance abuse. There are no specialized de-addiction programmes within the institutions. For children in conflict with law, accessing de-addiction services outside the institution is also not possible.

Karnataka DWCD runs a scheme for prevention of alcoholism and substance (drug) abuse. However, it is not known whether children in institutional care requiring de-addiction have availed any benefits of this scheme. Perhaps there is need to probe into the linkages and convergence of services possible within the Department itself.

Terminology used

In the boys home, it was said that they receive about 600-700 boys every year. They have already received 306 boys since April 2007 and 26 have been “committed” in institutions. While the authorities realize that ‘committal’ is not an appropriate term to be used going by the letter and spirit of juvenile justice, they continue to use such terms.

Even the Annual Report of Karnataka DWCD uses the term ‘correctional services’ for programmes and schemes relating to juvenile justice.

Monitoring the functioning of institutions and implementation of JJ Act

On 12 June 2006, Justice Mohan Shantan Gouda was appointed by the Karnataka High Court to oversee the functioning of the JJ Act, including institutions meant for children.

Justice V. Gopala Gowda, Executive Chairman of the Karnataka Legal Services Authority (KLSA) is also reported to have been asked to look into juvenile justice matters.

Some more issues that emerged from the discussions with NGOs

The discussion with NGOs working in Bangalore and other parts of Karnataka brought out the following areas of concern -

There is no uniformity in laws dealing with children. There is no one age definition of the child. This creates a problem in dealing with children’s issues and ensuring social justice for children.

According to the ex-Chairperson of one of the CWCs, Ms. Neena Naik, the child labour Act fails to deal with 14-18 year old child labour. She added that even though ILO treats children under 16 years of age as child labour.

Children’s issues should be dealt with by a separate Department instead of the Department of Women and Child Department which deals with both women’s and children’s issues.

In the case of child labour, there is no coordination between the labour department, the police and the education department. As a result the child a holistic approach to rehabilitation of rescued child labour cannot be ensured.

Only a child rescued by an NGO gets to be produced before the Child Welfare Committee. Otherwise, if rescued by the Labour Department, the department deals with them on their own and in a manner best known to them. In 2003-2004 there was good coordination between the Labour Department and the Child Welfare Committee, which is not the case now as the number of cases has been on the rise, particularly after the 10 October 2006 notification banning employment of children in domestic work.

Many of the working children in Bangalore are trafficked. But there is no law under which a case of trafficking of children for labour can be booked.

There is need for a protection and rehabilitation package for such children, whereby both the child and his/her stand protected.

While some NGOs felt that the treatment of rescued child labour under the juvenile justice system further criminalized them, isolated them from the rest of the world and institutionalization in the name of keeping children in a protective environment can never be rights-based, some others, particularly those who are members of the CWC strongly objected to this view. They felt that that is was an incorrect propaganda as rescued children do need protection and cannot be left on the streets to get back into exploitative conditions of work.

It was pointed out that parents themselves want their children to work and therefore while they are not as scared of the Labour Department as they are of the Child Welfare Committees, which question them and also deal with child labour issues strictly.

Placement agencies placing children in employment need to be dealt with strictly.

As far as children in conflict with law are concerned, the NGOs questioned the necessity for a judicial process in cases involving children. There was a unanimous voice for application of the 'principle of diversion', a greater role for SJPU's instead of regular police in dealing with children, and need for procedures, guidelines and protocol for ensuring diversion. Solving cases at the police station level itself as far as possible, without pushing children into rigorous judicial processes was suggested as a possible solution.

Institutions need to be fit for children, not only in terms of space and infrastructural requirements laid down in the law/rules, but also in terms of providing necessary care and rehabilitation services to every child.

Children's health care in institutions is another area that needs to be looked into. There are lots of children with special needs and doctors do not want to touch them.

There are no specialized services for the mentally and physically challenged children in institutional care.

Some institutions bring children from neighboring schools to show that they have met their target strength.

Instead of institutionalizing children by way of keeping them in a protective environment, protection mechanisms should be developed at the community level itself.

The child line service needs to expand to every district.

The CWCs should spend time in the Taluka's also once in a while.

NIPCCD should be strengthened to address child protection issues.

Karnataka has a few good examples of civil society's involvement in the education programme of the government. Adopting a government school is one such programme area where greater involvement of the civil society (including Community based organizations and individuals) needs to be promoted.

The bottom line is that involving the community is essential and also a more sustainable and viable option to institutional care.

In 2004, the Karnataka Juvenile Justice Forum was set up in where Government organizations and NGOs come together once in every two months to discuss matters concerning child protection and juvenile justice.

Repatriation of children across national borders is a problem as it involves consulates and requires strong networking between the governments and the NGOs in both the sending and receiving countries to ensure that the child is successful repatriated.

Children need to be informed about the JJ Act and their rights. Child rights should be made part of the school curriculum as part of civics/general knowledge/value education.

Creating youth mentors is a good practice. (These are called peer educators/street educators in some states).

NCPCR should also consult children.

Budget allocation for children is not a priority. NGOs alleged that neither are the allocations sufficient, nor does the State Department have a plan for spending. According to them there is need for a writ in the Supreme Court to ensure allocation of sufficient funds for implementation of the Juvenile Justice Act.

Areas of possible linkages

A meeting with the Justice V. Gopala Gowda, Executive Chairman, KLSA clearly brought out that KLSA is willing to support the State Department by way of paying up for counseling services and providing lawyers for legal aid for children as well as for creating awareness on child rights. In fact, Justice V. Gopala Gowda asked the representative from the State Department accompanying the NCPCR visiting team to identify the number of children requiring counseling and legal aid and assured that KLSA would arrange for it. He also said that the NCPCR should recommend that lawyers from KLSA be attached to the JJBs and CWCs. KLSA is trying to reach legal awareness to the villages through a mobile 'Legal Chariot' w.e.f. 23 September 2007. They have involved lawyers, law students, local artists, gram panchayat members in this campaign and will be holding street plays. The issues to be covered include education, malnutrition, child marriage, women's rights and how they been denied their rights etc. As regards counseling, KLSA's experience in the past has been that despite announcing to pay some honorarium to counselors for their services, no counselor/NGO has come forward.

NIMHANS

NIMHANS being based in Bangalore itself, can be roped into the picture for meeting the need for trained counselors and sensitive staff in the institutions. A tie-up between Karnataka DWCD, KLSA and NIMHANS along with other agencies and institutions that may be interested in fulfilling the counseling needs of children in the juvenile justice system will certainly be a step ahead.

CENTRE FOR CHILD AND LAW – NLSUI

CCL-NLSUI needs to be in meeting the training and capacity building needs as well as research and documentation.

GENERATING DATA-BASE

As has been pointed out earlier, various Departments need to come together for creating and maintaining a data-base.

All CWCs and Child Line Organisations should be connected online.

NEED FOR A HOLISTIC APPROACH

A holistic approach to juvenile justice alone can bring a change. It should not only help children who come in contact with the juvenile justice system but should also address the root causes of the problem by reducing vulnerabilities and empowering families. In fact there is no linking up with other services of the government for reducing vulnerabilities of the families, because of which children stand at risk.