

**Report on the Regional Round Table Conference of North Eastern States
On
Effective Implementation of Juvenile Justice (Care and Protection of Children)
Act, 2000¹**

23 – 24 August 2014

I. Introduction

The two-day Regional Round Table Conference of North Eastern States and Sikkim on the Effective Implementation of Juvenile Justice (Care and Protection of Children) Act, 2000, was organized by the Supreme Court Committee and High Court Committees on Juvenile Justice on 23rd and 24th August 2014. The event was hosted by the Guwahati High Court, with the support of UNICEF, Assam Field Office in partnership with the National Law University and Judicial Academy, Assam (NLUJAA), and the Centre for Child and the Law, National Law School of India University (NLSIU), Bangalore.

The program witnessed participation from more than 130 persons who represented the judiciary, State Legal Services Authority, concerned Departments responsible for implementing the JJ Act, representatives from academic institutions, NGOs and other stakeholders from 8 States of India - i.e. Assam, Manipur, Meghalaya, Tripura, Arunachal Pradesh, Mizoram, Nagaland and Sikkim.

Hon’ble Mr. Justice A.C. Upadhyay (retd.), Director of the Assam Judicial Academy and Vice-Chancellor (Acting) of the NLUJAA welcomed all the dignitaries and other distinguished participants and set the tone for the entire conference by emphasizing that the prevention of juvenile delinquency and the rehabilitation and restoration of juveniles are the ultimate goals of the juvenile justice system.

Hon’ble Mr. Justice K. Sreedhar Rao, the Chief Justice of the Gauhati High Court (Acting) emphasized that the JJ Act was largely still only on paper and has not seen 100% implementation. He lamented on the pitiable state of the different Homes all over the country, which are poorly equipped and largely under the care of indifferent staff members.

Dr. Tushar Manohar Rane, Chief, UNICEF Assam remarked that this conference was the first of its kind in the country and is therefore a breakthrough moment for India - one that will initiate a dialogue on the implementation of the JJ Act across the country. He stated that the manner in which children are treated has a direct effect on their physical and emotional growth. Thus it was imperative for the system to ensure that care and protection reaches vulnerable children so that they are nurtured.

Hon’ble Mr. Justice Madan B. Lokur, Judge, Supreme Court of India expressed his satisfaction that an idea which had conceptualized at the National level meeting of the Supreme Court Committee on Juvenile Justice in February 2014, has matured and is now in action mode through this Regional Round Table Conference - the first of its kind in the country, that too taking place in the North East – an important region of India. He urged the delegates to answer one important question – *‘Are we doing enough for these children?’* He emphasized that the

¹ Prepared by representatives of the Juvenile Justice team at the Centre for Child and the Law, (CCL), National Law School of India University (NLSIU), with inputs from Ms. Nina Nayak and Ms. Bharti Sharma, consultants to CCL NLSIU for this project and student rapporteurs from National Law University and Judicial Academy – Assam led by Dr. Shannu Narayan and Dr. BenarjiChakka.

Round Tables are designed as a platform for dialogue that triggers concrete solutions and effective action and not as a ‘Seminar’ with experts delivering lectures.

Justice Lokur made a clarion call to all stakeholders to ‘Introspect, to become more sensitive, and to work together keeping the child and not self-interest as the key focus’, be it Hon’ble brother judges of the High Court Committees, officers of the various Departments, the Commissions for Children, NGOs, academic institutions and the wider community. He concluded by urging the participants to participate actively and take things forward with a sense of mission.

II. Challenges faced in the effective implementation of the JJ Act

The Technical Session I was conducted on 23rd August in order to assess the status and identify the challenges faced by each of the states in the implementation of the JJ Act. The Hon’ble Judges of the respective High Courts of all the North Eastern States and Sikkim presented the status of implementation of the JJ Act in their states.

These presentations brought out several bottlenecks and shortcomings in the system that impeded the fulfillment of the goals of the JJ Act. All the states articulated challenges relating to the fact that the present system was clogged with various structural, financial, administrative, organizational and infrastructural challenges. The rampant trafficking of children in these areas particularly plagued the working of the juvenile justice system in the North Eastern States and Sikkim. The uncontrolled illegal migration from the neighboring countries and the presence of border forces continually in this turbulent region also amplified the problem.

The issues emerging from their presentations have been clustered below as follows:

- 2.1 Issues of Common Concern – a listing and tabular depiction of issues that were raised by two or more States.
- 2.2 State-specific Challenges – a listing of unique challenges faced by some of the States that affects the effective implementation of the JJ Act.

2.1. Issues of Common Concern

The several issues that were put forth by the states have been tabulated under four themes – Effective functioning of JJBs, Effective Functioning of CWCs, Effective Functioning and Management of Institutions and the provision of Effective Legal Aid to Children.

2.1.1. Effective Functioning of CWCs

The problems related to the functioning of the CWCs were raised only in the presentations made by the state of Assam, in which it was highlighted that the functioning of CWCs was affected by the large number of vacancies and the lack of adequate infrastructure. The other challenges faced by CWCs were raised in detail during the group work presentations which is reported in section 3.2 of this report.

2.1.2. Effective Functioning of JJBs

The state presentations revealed a number of challenges that impacts the proper functioning of the JJBs in the North East region. These issues range from infrastructural and staffing problems to difficulties in tackling pendency of cases.

Key challenges that affect the effective functioning of JJBs that emerged from the State-wise Round Tables are as follows:

Table 1: Issues affecting the effective functioning of Juvenile Justice Boards

Issue	Assam	Ar. Pradesh	Manipur	Meghalaya	Mizoram	Nagaland	Tripura	Sikkim
1. Principal Magistrates having a double role – need for hearing on daily basis& JJBs not functioning full time	✓							✓
2. High pendency of cases	✓							
3. Insufficient Probation Officers	✓			✓				✓
4. No separate cadre of POs for juveniles under the JJ Act							✓	
5. Distance between JJBs and other Courts making it difficult for the judicial officers	✓							
6. Insufficient Infrastructure			✓				✓	✓
7. Issues related to appointments of JJB members (political appointments, unqualified/inexperienced persons being appointment)								✓
8. Shortage of staff			✓					
9. Lack of personnel with training and relevant skills			✓					✓

2.1.3. Effective Management of Institutions

The situation in the different Homes was also discussed extensively during the state presentations. Shortage of staff, shortage of homes and infrastructural concerns are shared in common by these states which has resulted in the poor quality of these Homes.

Key challenges that emerged from the State-wise Round Tables are as follows:

Table 2: Issues affecting the effective management of Institutions

Issue	Assam	Ar. Pradesh	Manipur	Meghalaya	Mizoram	Nagaland	Tripura	Sikkim
1. Insufficient number of homes run by the State and insufficient capacity	✓		✓	✓				
2. Shortage of trained staff	✓		✓	✓				
3. Poor infrastructure			✓			✓		✓
4. Need for appropriate segregation of children within the same institution/children from different institutions under the Act	✓			✓		✓		
5. Short term contractual appointments, which compromise the quality of care				✓				
6. Lack of access to formal education			✓	✓				
7. Poor monitoring and non-establishment of mandated Committees	✓		✓					
8. Lack of medical facility	✓							
9. Lack of foster care services	✓							
10. Open shelters do not have standard operating procedures, terms of reference and job descriptions for staff etc.	✓							
11. Unregistered Homes	✓							
12. Discrimination in admission of children into some institutions based on religion, in the past				✓				
13. No/Poor rehabilitation services						✓	✓	

14. Paucity of funds			✓			✓		
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2.1.4. *Effective Provision of Legal Aid for Children*

The issues regarding legal aid were raised only in the presentations on the states of Assam and Meghalaya. The challenges regarding legal aid were discussed during the group presentations, reported in section 3.4 of this report.

Key challenges that emerged from the State-wise Round Tables are as follows:

Table 3: Issues affecting the effective provision of Legal Aid to Children

Issue	Assam	Ar. Pradesh	Manipur	Meghalaya	Mizoram	Nagaland	Tripura	Sikkim
1. There must be a link between District Legal Services Authority and State Legal Services Authority.	✓							
2. Lack of legal aid for CNCP				✓				

2.1.5. *Other Issues*

Several issues not specifically falling under the above themes were raised in the round table.

2.1.5.1 **Police**

All states repeatedly and unanimously expressed their unhappiness with the functioning of the **Police** in relation to both sectors of children - children alleged/found to be in conflict with the law and children in need of care and protection. All states stated the need for thorough training and sensitization of the police force.

These states also stated that the SJPU weren't functioning well. Mizoram particularly indicated that the police force was constantly being transferred and thus there was no stable SJPU. There is need to have SJPU designated by post. Assam and Manipur particularly pointed out the poor record keeping done at these stations. The Police station also came under severe criticism of most of the states who stated that it was not at all child friendly. The stations were hostile with very few women police force and poor infrastructure.

2.1.5.2 **Funding and Infrastructure challenges**

Amongst issues other than those associated with the police force all states raised issues with regard to the poor infrastructure in the system as well as the general paucity of funds leading to incomplete implementation of the Act.

2.1.5.3 **Quality of functionaries**

Another concern voiced by every state was the need for training and sensitization of all the stakeholders in the system. Sikkim stated that the qualifications that are needed were not clear and the honorarium is not sufficient.

2.1.5.4 Trafficking

Trafficking was identified as a big issue in the north eastern states, which is why it was felt as imperative that the stakeholders involved in the implementation of the JJ Act be linked with those working against trafficking. Assam specially pointed out that there was a need for anti-trafficking units and further mentioned that none of the Institutions housing children are located in areas where trafficking is rampant. Assam further revealed that there is no proper registry maintained on children who are trafficked or missing, which raises serious problems. For eg., in Manipur it was found that around 700 children were taken away from villages and yet there are **no police records** and a complete absence of complaints. Further many of these children are later rescued in places like Bombay and there is no proper mechanism for how to repatriate them back.

2.2 State specific challenges

Assam

- Need for **specialized people/members** to be appointed to the JJBs, CWCs and other statutory committees,
- SJPU are not functioning properly and **records** are not being maintained properly.
- Children in conflict with law are sometimes actually **tried in the police station** itself which is a matter of serious concern.
- Need for **village level child protection committees (VLCPC)**.
- There is **no District Child Labour Rehabilitation Fund**
- The NGO homes are only available in few districts.
- Segregation is a concern in the Child care institutions.

Sikkim

- Juveniles are sometimes ousted from home. It is very difficult to **locate parents** and the **language barrier** poses a serious challenge here.
- **Training of counsels** is not done.

Manipur

- The State Commission for Protection of Children Rights (**SCPCR**) was **not functioning** in a proper manner.
- Problems related to clash between customary law and other laws.
- Some of the judicial officers had **not yet reported for duty** even after their appointment.
- **Illegal adoption** is rampant in Manipur.
- There are **inadequate Observation homes**.
- **Poor documentation** in most of the Children's homes,
- Children are admitted in various homes **without following the required procedure**

Meghalaya

- SCPCR **has no members** and only has a Chairperson
- Children in institutions often have **no documents** such as birth certificate
- **Lack of adequate communication** with relevant departments.
- No formal education and only vocational classes, yoga, crafts and in-formal education in Special Homes and OHs.
- Cases of refusal of admission in CCIs based of religious backgrounds.
- The OH and Shelter Home sometimes function from the same premises and from rented houses.
- No proper segregation in Homes.

Mizoram

- There was **need for public transportation** in remote areas
- Need for timely and adequate allocation of funds.
- Role and powers of the **inspection committee** are not laid down.
- The **number of counsellors** is disproportionate to the number of children.

Nagaland

- Pathetic conditions in all **children's' homes**.
- Poor **rehabilitation and monitoring** due to lack of fund and shortage of time and resources.

Arunachal Pradesh

- The state suffers from a huge shortage of funds

Tripura

- There are no separate probation **officers** under the JJ Act to deal with the juveniles in conflict of law. The persons performing this role are all jail officials and do not have the required skills.
- Except one there are no other JJBs which has a **separate office**
- Almost all **staffs** are engaged on contractual basis.
- **No transport costs** are given to witnesses
- **Political appointments** (not based on competence)
- Police authorities are **not giving their reports** within 6 months.
- Problems related to **restoration of children**
- **FIR copy** not given to victim

III. Key Challenges and Proposed Solutions

On 23 August 2014, participants were divided into eight groups under four themes and urged to deliberate on the key challenges, solutions and the way forward. The four themes were:

- (a) Effective functioning of Juvenile Justice Boards
- (b) Effective functioning of Child Welfare Committees
- (c) Effective Management of institutions.

(d) Effective Legal aid for children

This section captures the solutions proposed in response to the challenges identified.

3.1. Key Challenges and Proposed Solutions to Ensure Effective Functioning of JJBs

S. No	Key Challenges	Proposed Solutions
1.	Lack of adequate training for JJB	<ul style="list-style-type: none"> All the stakeholders should be collectively trained under one roof based on a common national level training module
2.	Absence of Child Friendly Proceedings	<ul style="list-style-type: none"> Need for child friendly language, proceedings, ambience in all JJB proceedings. Place of sitting should be within the Observation Home, and not Court premise - need for a child friendly environment
3.	Individualized attention to children Individualized approaches not being followed, and Individual Care Plans, mandatory part of every final order, not being prepared.	<ul style="list-style-type: none"> Individual Care plan of each child should be in place and reviewed regularly. Need to invest much more on Social Re-integration
4.	Quality and adequacy of counselling services for children Proper counselling services to put in place, through appointment of trained counselors, who should then be further trained to work with this special group of children.	<ul style="list-style-type: none"> State Governments, Academic institutions and counselling centres to be pro-active in this regard.
5.	JJB members not attending proceedings regularly	<ul style="list-style-type: none"> Regular presence of members should be ensured.
6.	Lack of clarity on 'Place of Safety'	<ul style="list-style-type: none"> Place of safety to be well defined and to be established.
7.	Lack of adequate understanding of the POCSO Act and its implications for the JJB and other functionaries	<ul style="list-style-type: none"> Need for training on POCSO Act
8.	Rehabilitative services for juveniles found to be in conflict with law Orders that may be passed by the JJB are listed in the law, but the services are not available, therefore handicapping the JJB members and denying children the services they need to be rehabilitated and re-integrated into the community.	<ul style="list-style-type: none"> State government to study the services available, and respond on priority. Community services needs to be established.
9.	Juvenile Justice Fund not in place	<ul style="list-style-type: none"> JJ fund should be created

10.	Problems relating to pendency	<ul style="list-style-type: none"> Support staff for JJBs, and requisite infrastructure to be in place – including vehicle, video conferencing facilities. JJBs to increase sittings where necessary.
11.	Treatment of juveniles who are foreigners Lack of clarity on procedures to be adopted for juveniles who are foreigners	<ul style="list-style-type: none"> Rules should elaborate on procedures related to juveniles who are foreigners
12.	Attracting and motivating Principal Magistrates to serve in JJBs Principal Magistrates need to be affirmed and motivated to take up this responsibility. There is a lack of recognition of the positive actions that Principal Magistrates may have taken during their tenure, as these are not mentioned in their confidential reports.	<ul style="list-style-type: none"> High Courts to take suitable action.

3.2. Key Challenges and Proposed Solutions to Ensure Effective Functioning of CWCs

SI No	Key Challenges	Proposed Solutions
1.	Capacity Building <ul style="list-style-type: none"> Initial Orientation Ongoing capacity building initiatives 	<ul style="list-style-type: none"> Initial orientation as soon as possible Capacity building programmes on laws concerning children writing and maintaining records and CARA Guidelines to be organised.
2.	Infrastructure <ul style="list-style-type: none"> Physical Human Resource 	<ul style="list-style-type: none"> Physical infrastructure including adequate space, furniture, stationary, drinking water facility for all Internet facilities Administrative amenities Human Resource:staff as per JJ Rules and their training e.g. counsellor, probation officer, peon, data entry person etc.
3.	Transport	<ul style="list-style-type: none"> Provision of transport facility for performing functions of CWC DCPU/ Police to help CWC where places are accessibility is difficult
4.	Delay in disbursement of Funds	<ul style="list-style-type: none"> Timely and regular release of sitting allowances to CWCs and any other fund
5.	Awareness of JJ System and CWC	<ul style="list-style-type: none"> Awareness generation in relation to JJ system in the society especially CNCP Awareness generation about CWC in the respective district Sensitization of all stakeholders including all levels of judiciary, CBOs, DCPU functionaries, tribal

		<p>apex bodies, religious organizations, NGOs.</p> <ul style="list-style-type: none"> • Sensitization of concerned bureaucracy and government departments.
6.	Sittings of CWCs	<ul style="list-style-type: none"> • CWCs should try to prepare a clear plan of action to guide their functioning • Depending upon volume of work and the pendency, sittings of CWC should be increased • CWCs should increase the number of sittings, or even work full time in order to reduce pendency. •
7.	Monitoring of CWCs At present no proper monitoring mechanism exists and this affects functioning	<ul style="list-style-type: none"> • There should be a mechanism in place to monitor the functioning of CWCs. • Monitoring should be done by a higher body
8.	Customary Laws Some customary laws against best interest of children	<ul style="list-style-type: none"> • State to issue directives to Tribal Apex bodies to prevent customary laws that interfere with implementation of JJ Act
9.	CWCs lack guidance to function	<ul style="list-style-type: none"> • Standard Operating Procedures (SOP) to be developed by each State for effective functioning of CWCs
10.	Selection of CWC	<ul style="list-style-type: none"> • No political appointments • Selection Committee should widely consult civil society groups for CWC appointments
11.	Availability of Resource Directory	<ul style="list-style-type: none"> • Each District should ascertain that there is a Resource Directory made available to CWC • Resource Directory should have detailed information of hospitals, nursing homes, institutions, schools, govt. departments, DCPU staff, police stations and police functionaries, etc.
12.	Lack of contact details of various police functionaries	<ul style="list-style-type: none"> • Contact details of relevant police functionaries to remain available to CWC
13.	Tardy rehabilitation of CNCP	<ul style="list-style-type: none"> • CWC to ascertain proper rehabilitation of children
14.	Lack of data on CNCP	<ul style="list-style-type: none"> • CWC should encourage NGOs to take up study to identify CNCP, the extent of vulnerability and assess the extent of work in relation to CNCP

3.3. Key Challenges and Proposed Solutions to Ensure Effective Management of Institutions

Sl No.	Key Challenges	Proposed Solutions
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1.	Poor quality of the Staff	<ul style="list-style-type: none"> • Systematic training through a recognized state level training institute to provide for proper and regular training on Burnout Management, Documentation skills, and Counseling skills for the staff. • The national level institute NIPCCD is not enough and a state level institute for this purpose is important.
2.	Lack of adequate essential services such as education, vocational therapy and health services for Children. Sarva Shiksha Abhiyan has not been effective in giving out quality education that helps children compete with other children.	<ul style="list-style-type: none"> • Need more resources to ensure essential services. • Vocational training is an integral component as it aids them to survive in the community. This can be done by outsourcing to private sector for which we need proper networking. This training should be supplemented by lucrative job opportunities for which the government needs to intervene and make such opportunities available. • Shortage of doctors must be addressed. • Social Audits, Health Audits and Hygiene Audits must happen regularly at these Homes. • Organisations must give performances through artists, sportsmen, etc, to motivate children and be a role model.
3.	Inadequate funding	<ul style="list-style-type: none"> • There must be an increase in community participation both by physical presence and through donations. Even corporate entities can get involved. This will help quelling the feeling of social ostracization. • Public must be able to contribute the JJ Fund with tax exemption incentives.
4.	Poor monitoring and evaluation mechanisms	<ul style="list-style-type: none"> • Monitoring and Evaluation must be regular and ongoing and not a one-time affair. • CCTVs may be installed in all homes for this purpose. • Children's Committees and Management Committees should be established and made functional in order to ensure the proper functioning of these institutions.

3.4. Key Challenges and Proposed Solutions to Ensure Effective provision of Legal Aid for children

Sl. No	Key Challenges	Proposed Solutions
1.	<p>Lack of sufficient legal knowledge in the key stakeholders involved.</p> <ul style="list-style-type: none"> • Improving the capacity of stakeholders to provide legal aid or enable access to legal aid • Improving the capacity of stakeholders to recognize violations and take necessary action 	<ul style="list-style-type: none"> • Appointment of adequate numbers of legal cum probation officers. • Sensitization and imparting legal education of all functionaries involved. • Sensitization and training of police personnel dealing with juveniles. • Capacitate the service providers to enable them to establish rapport with children and intervene in any traumatic situation so that they may be able to recognize violation of legal rights of the child. • NIPCCD needs to provide quality training and with quality content materials.
2.	<p>Lack of Access to Legal Aid</p> <ul style="list-style-type: none"> • Need for more personnel with legal knowledge • Need for mechanisms to reach out to children in need of legal aid instead of waiting for them to approach you • Need for actively mobilizing more volunteers with legal knowledge • Improving Awareness of availability of legal aid and the rights of children under the various legislations 	<ul style="list-style-type: none"> • Establish of legal aid clinics specifically for children. • Ensure proper counseling by experts; legal counseling for children produced before the CWC. • Engage paralegal volunteers in observation homes and police stations. • Engage child rights lawyers, law institutions and Universities for student legal services and NGO volunteers for paralegal services. • Accelerate critical mass legal awareness on free legal aid services in the community and among the stakeholders. • Include 'Child Rights' in the school curriculum of all school to enable children to know their rights.
3.	<p>Lack of Monitoring and Compliance Procedures with respect to the provision of legal aid to children</p>	<ul style="list-style-type: none"> • Conduct performance audit of juvenile justice institutions through an independent Central agency. • Ensure compliance with Supreme Court judgment requiring paralegal volunteers to reach out to every police station in child related cases.

4.	Setting standards on the quality of legal aid to children	<ul style="list-style-type: none"> • Develop Guiding Principles on Quality Legal Aid Services to Children (CNCP & JCL) to ensure easy accessibility, prompt deliverance of justice, child friendly services under the ‘best interest of the child’ principle. • Set up Legal Aid Quality Framework including minimum standards to be a Legal Aid Service Provider for children, mandatory training and skill on child laws (UNCRC besides National Legislations such as JJ Act, RTE Act, Child Labour Act, POCSO Act etc), Child Rights issues, Child Psychology, Child Counseling etc.
5.	Development of Resource Material	Develop a Resource Directory on Legal Aid Services which must be available readily with all key stakeholders Prepare a Service Providers’ Manual defining the role of Service providers’ in providing legal aid to address specific cases, such as those related to domestic violence.
6.	Lack of initiative and active functioning by the SCPU and DCPU <ul style="list-style-type: none"> • Need to act as a coordinating body • Need to monitor the provision of legal aid 	<ul style="list-style-type: none"> • Monitor the quality of service of LSP/ lawyers. • Regularly liaise, coordinate and follow-up with concerned agencies. • Ensure that legal aid is accessible to all needy children • Constantly network at all levels: state, district, & village. • Connect with SLSA/DLSA/NLSA, • Put in place complaint management system • Ensure accessibility and reach to all JJ institutions and needy children.
7.	Long term strategies for improving the quality of legal aid to children	<ul style="list-style-type: none"> • Provide better, reasonable and adequate fees for persons providing legal services to children

3.5 Key Challenges and Recommendations that emerged on other issues

At a generic level, certain key issues that were discussed during the deliberations were as follows:

1. The JJ Act as it stands today is aimed at ensuring care, protection, treatment, development and re-integration of children. The **need to ensure compliance with this legislative vision as well as the legal obligations that arise from**

the UN Convention on the Rights of the Child ratified by India was been repeatedly emphasized.

2. The need for all stakeholders including police, functionaries, NGOs, and the wider community need to consciously **break away from traditional negative mind sets**, and develop a positive mindset – one that ensures that children and their needs are respected was reiterated.
3. A key issue of concern in the North East is the **widespread exploitation and abuse** of children for domestic labour, given the prevalent attitude, that employing child labour is a form of public service!
4. Another key issue that was raised is the problems related to **trafficking/displacement of children** for various purposes and the lack of anti-trafficking units in every district.
5. The needs and rights of **children living with HIV/AIDs** and protecting their inheritance rights were highlighted.
6. The **problems related to child soldiers** were also highlighted.

Good Practices from the North Eastern States that emerged during State Presentations

- ✓ **Assam** has started a public fund raising initiative aimed at supporting the educational needs of children in statutory Homes
- ✓ **Sikkim** published book on Rights of Children in Nepali, the official language of Sikkim
- ✓ **Assam** has initiated a practice of celebrating an Annual Child Protection Day