

ROLE OF POLICE & OTHER STAKEHOLDERS IN CHILD PROTECTION

Both in India and in the global context, the role of police and other stakeholders in child protection is inextricably interwoven with varying definitions of 'child' and the provisions and perceptions of 'child protection' within the given situations, policies, laws and programs and the budgetary allocations. In this article, we propose to limit ourselves to the Indian context since we are addressing the police and other stakeholders of India connected to the juvenile justice system along with the plethora of child related legislations which define and provide for child protection from different angles and perspectives. The Police is decidedly the 'prime movers' within the criminal justice system with other stakeholders being the Judiciary, Lawyers as the prosecutors and defenders of the accused and the jails or correctional systems; the experience of the actual child protection practices indicate, arguably, that the police has to now play no less significant role among the stakeholders of the child protection related activities. The other stakeholders primarily fall in three categories, namely, judicial and quasi-judicial, statutory and non-statutory institutions and services, and the civil society organisations and social work professionals in different roles. India's evolving juvenile justice system-which uniquely covers almost all categories of the children in need of care and protection including those in conflict with law-theoretically creates world's most comprehensive-albeit challenging child protection system.

WHO IS A CHILD?

A child is broadly defined under the United Nations Convention on the Rights of Child (UNCRC) and the basic law for the Children in India, the Juvenile Justice (Care and Protection of Children) (JJ) Act, 2015 as any person under the age of 18 years old.

Children (below 18 years) constitute 37.83 % of India's population		
Acts/Laws	Section(s)	Age
IPC (Indian Penal Code)	82 83 317 375(6) 372-373	Under 7 years – No offence 7 to 12 years (Immaturity) – No offence 12 years -Abandoned Child 16 years – (Rape) Consent Age 18 years- Selling & Buying Minors for Prostitution, Immoral/Unlawful purposes
Juvenile Justice (Care & Protection of Children) Act 2015 (J. J. Act)	2 (12) & (35)	Juvenile/Child – not completed 18 years of age However, 16-18 years can be tried as an adult if they committed a heinous crime
The Child and Adolescent Labour (Prohibition & Regulation) Amendment Act, 2016	2 (II)	Under 14 years- Prohibit engagement in all occupations & processes, except household enterprises, artistic work, sports etc. 14-18 years of age- hazardous occupations and processes (prohibited as per the Schedule of the Act)
Immoral Trafficking (Prohibition) Act 1956	2(aa), (ca), (cb)	Child under 16 years Minor – under 18 years
Indian Majority Act 1875	3	On Completion of 18 years
Child Marriage (Prohibition) Act 2006	2(a)	Male Child - Under 21 years Female Child – Under 18 years
(Bombay) Prevention	2(1)(iv)	Child – as under Children Act (JJ Act 2000)

of Begging Act 1959		
Protection of Children Against Sexual Offences (POCSO) Act 2012	2(i)(d)	Upto 18 years
Criminal Law (Amendment) Act, 2013	375 (6) IPC	Under 18 years-Rape. with or without consent Exception 2-sexual acts with wife, not being under 15
Right to Free & Compulsory Education Act 2009	2(c)	6-14 years of age

DEFINING CHILD PROTECTION:

Protecting children from or against any perceived or actual harm to their life, personhood, or childhood is what "Child Protection" is all about. Protection of all children's rights, particularly those who require special care, and creation of plans to assure their realization constitutes child protection. It involves creating a safe atmosphere to reduce children's exposure to abuse and exploitation. It also emphasizes that special steps are necessary for children who do not have any safety net and for anyone else who is likely to join the ranks of children in challenging situations. Child protection policies address the fundamental requirements for health, nutrition, education, safety, and overall development and aims to provide protection for kids from abuse, exploitation, violence, labour, beggarly, trafficking, sexual and physical abuse of all types, pornography, corporal punishment, and other cruel practises.

Constitutional Provisions:

- o **Article 15(3)** enjoins the state to make special provisions for children.
- o **Article 23** prohibits the trafficking of human beings & forced labour.

- **Article 24** forbids the employment of children below the age of 14 years in factories, mines & other hazardous occupations.
- **Article 39(e)** directs the state to safeguard the tender age of children from entering into jobs unsuited to their age & strength forced by economic necessity.
- **Article 39(f)** directs the state to secure facilities for the healthy development of children & to protect children & youth against exploitation & moral & material abandonment.
- **Article 45** directs the state to provide free & compulsory education to all children upto 14 years of age.

CHILDREN UNDER CHILD PROTECTION CATEGORIES

The Juvenile Justice (Care and Protection of Children) Act, 2015, and other laws related to children identify different categories of children in need of protection as:

- children in need of care & protection
- children in conflict with law
- Children as Victims/Witnesses of Crimes
- Children as Victims of Crisis & Disaster
- Children in Especially Difficult Circumstances
- Missing, Found & 'Nowhere' Children
- Marginalized & Deprived Girl Child
- Children as Victims of prohibited forms of Child labour
- Children abandoned by parents or caregivers

CHILD IN NEED OF CARE AND PROTECTION:

Children, who are **472 million**¹ in India under the age of 18 years, representing 39% of the country's total population out of which a large percentage, 29% of that figure constitute children between the ages of 0 to 6 years. Children are said to be our 'supreme assets', yet they are the most vulnerable, often abused and exploited, segments of our society. Of them, nearly 35 million children are estimated to be the 'children in need of

¹ <https://pib.gov.in/pressreleasepage.aspx?prid=1776865>

care and protection'. They are defined under Section 2 (14) of Juvenile Justice (Care and Protection of Children) Act 2015² as follows:

"child—

- (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or*
- (ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or*
- (iii) who resides with a person (whether a guardian of the child or not) and such person—*
 - (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or*
 - (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or*
 - (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or*
- (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or*
- (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or*
- (vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or*
- (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or*
- (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or*
- (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or*

² https://legislative.gov.in/sites/default/files/A2016-2_0.pdf

(x) who is being or is likely to be abused for unconscionable gains; or

(xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or

(xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;"

Within a larger block of approximately 172 million children at risk, India is estimated to have **nearly 32.2 million** being out-of-school children being socioeconomically deprived groups and nearly 20 million without any form of support system. Many of these either have no families, or cannot safely be repatriated to them, and they fall under the protection of the JJ Act. Without Homes, Settled place and ostensible means

- Begging, Street & Working
- Threatened to kill, Abused, Injured and Neglected
- Mentally and Physically Challenged, Ailing, Incurable and Terminal Disease
- Incapacitated Parents / Guardians, Unwilling to take care
- Abandoned, Runaway, Missing – Parents not traceable
- Being, likely to be Abused and/or Tortured
- Exploited for Sexual Abuse and Illegal Acts
- Vulnerable to Drug Abuse, Trafficking and unconscionable gains
- Victims of an Armed Conflict, Civil Commotion and Natural Calamity
- Mentally or physically challenged
- Mentally or physically ill, suffering with terminal diseases, AIDS/HIV affected

UNITED NATIONS CONVENTION ON CHILD RIGHTS:

The United Nations Convention on the Rights of the Child was ratified by India in 1992. Based on the idea that "ALL children are born with essential freedoms and ALL human beings have some inherent rights" the Charter of Child Rights (CRC) was created. All

children worldwide are granted the following broadly categorised fundamental rights under the Charter:

1. The right to **Survival**
2. The right to **Protection**
3. The right to **Participation**
4. The right to **Development**

The Convention has broken all records as the most widely ratified human rights treaty in history. **Its uniqueness stems from the fact that it is the first legally binding international instrument to incorporate the full range of human and child rights - children's natural and need-based rights, civil and political, as well as their economic, social and cultural rights - thus giving all rights equal status.**

In situations of exploitation, the Convention on the Rights of the Child (CRC) pronounces that children have the right to be protected from economic exploitation and from work that threatens their health, education or development. States shall set minimum wages for the employment suitable for their age and regulate working conditions. Children have the right to protection from the use of narcotic and psychotropic substances, as well as from being involved in their production and distribution. The State shall protect children from sexual exploitation and abuse, including prostitution and involvement in pornography. The CRC stipulates that it is the State's obligation to make every effort to prevent the sale, trafficking and abduction of children.

In situations of exploitation, the Convention on the Rights of the Child (CRC) pronounces that children have the right to be protected from economic exploitation and from work that threatens their health, education and development.

Regarding the administration of 'Juvenile Justice', children who come in conflict with the law have the right to proper redressal that promotes their dignity and self-worth, taking the child's age into account and aiming at her or his reintegration into society.

The rights as envisaged in the Convention, including rights to protection, survival, development and participation provide guidelines for strengthening the juvenile justice system in India of which the government or non-government run homes are a necessary component.

CURRENT SCENARIO WITH DATA:

LAWS AND SCHEMES RELATED TO CHILD RIGHTS & CHILD PROTECTION IN INDIA:

India has a fairly comprehensive policy and legal framework addressing rights and protection for children, providing opportunities to ensure that all children have equal access to quality protection services. Flowing out of the Indian Constitution and the International Instruments ratified by the Govt. of India and others, there are multiple local and special laws which protect the children and their rights. However, besides the Indian Penal Code (IPC) the core child protection legislations are enshrined in five main laws: The Commissions for Protection of Child Rights Act 2005, The Juvenile Justice (Care and Protection of Children) Act (2000, amended in 2015); The Prohibition of Child Marriage Act (2006); The Protection of Children from Sexual Offences Act (2012 amended in 2019), and The Child and Adolescent Labour (Prohibition and Regulation) Act (1986, amended in 2016).

1. The Juvenile Justice (Care and Protection) Act, 2015:

The Juvenile Justice (Care & Protection of Children) Act, 2015 (hereinafter to be referred as J. J. Act, 2015) is a comprehensive legislation to provide justice, opportunities for growth, development of character and rehabilitation of Juveniles/children.

The law provides certain protection which the stakeholders, including police should keep in mind while handling the child/juvenile:

- Handling by Special Juvenile Police (Juvenile / Child Welfare Officer)
- Handcuffing of juvenile/child prohibited

- No detention in lock up or prison
- Crimes against children are cognizable (some made non-cognizable) offences (Chapter IX of J. J. Act, 2015)
- No death penalty or life imprisonment without subject to remission
- Proceedings informal, participatory & private – Probation officers, social workers
- Parents/Guardians involvement in Juvenile process
- Right to free legal aid, but no lawyers to argue
- Information about Juvenile/child cannot be released to media
- Immunity from offence IPC (Secs. 82/83 IPC)
- No FIR for Petty Offence & Serious Offences (Rule 8 of J. J. Model Rules, 2016)
- Child / Juvenile cannot be tried in the normal court
- JJB for Juveniles (JJ Act), Children’s Court (CPCR Act)

Chapter IX of the Juvenile Justice (Care & Protection of Children) Act, 2015 talks about Offences against children. Following are the statistics from the National Crime Records Bureau.

Year-wise Data of overall India for Juvenile Justice (Care and Protection of Children) Act (Total):

2016			2017			2018			2019			2020		
I	V	R	I	V	R	I	V	R	I	V	R	I	V	R
2253	331	0.5	245	3510	0.6	203	2514	0.5	196	269	0.4	171	2295	0.4
	7		2			0			8	9		3		

In the table, I = Incidence

V = Victim

R = Rate of Cognizable Offense

Chapter IX covers offences like putting children into beggary and labour, use of children by organised gangs or militant groups, exploitation of children and neglect etc. In common understanding we see these incidents happening everywhere, for example we see children on street begging or doing gymnastic activities. Definitely children are not in this situation on their own and there are organised groups doing these activities but there is neither awareness nor implementation of the statutory provisions. Implementation of these provisions may be an effective tool to curb the menace of offences against children.

2. The Protection of Children from Sexual Offences Act (2012):

The Protection of Children from Sexual Offences Act, 2012 (also known as the "POCSO Act, 2012") is a piece of legislation that attempts to shield children from all forms of sexual abuse or harassment.

India is home to the largest child population in the world, with about 39 per cent of the total population under eighteen years of age. Needless to say, the health and security of the country's children is integral to any vision for its progress and development. National Crime Records Bureau statistics stated that a total of 48, 338 child rape cases was recorded from 2001 to 2011 (the year before POCSO Act came into force). India saw an increase of 336% of child rape cases from 2001 (2,113 cases) to 2011 (7,112 cases). During the post-POCSO period, i.e., 2014 onwards there has been a dramatic increase in the cases of Child Sex Abuse, partly breaking the barriers and the 'conspiracy of silence' that inhibited the children, families and caregivers to speak up. In 2014, there were 8904 cases disclosed/reported under POCSO by 8,990 victims and the figures kept on increasing and in 2020 the reported cases were 47,221 with 47,659 child victims disclosing them. POCSO happens to be the most implemented Child Protection Law in the country, the pendency in the courts at national level being 2,26,728 cases in January, 2022. However, the pendency is a big concern. Hon'ble Supreme Court in 2019 took cognizance of this fact and asked the states to create Special Fast Track Courts wherever

the total number of pending cases are higher than 100 but still it is not implemented at all places.

STATISTICAL ANALYSIS OF INCIDENCES, VICTIMS AND RATE OF CRIMES UNDER POCSO ACT

	Incidence	Victim	Rate of Cognizable Offence
2020	47221	47659	10.6
2019	47335	48043	10.6
2018	39827	40810	8.9
2017	32608	33210	7.3
2016	36022	36321	8.1
2015	14913	15039	3.3
2014	8904	8990	2.0

According to the Statistical Analysis of crime under POCSO Act, the rate of cognizable Offences can be seen most in the year 2020 and 2019, i.e. 10.6% as compared to the past 7 years. The no. of incidents and victims can be seen increasing yearly.

3. Child Labour:

As per the 2011 Census Data, there were 10.1 million children working in India. We are in the process of estimating the actual number of the Child Labour as per the amended Child & Adolescent Labour (Prohibition & Regulation) Act 2016, the global figure (ILO-UNICEF) of Child Labour being 160 million- India's share being not less than 35 million, besides out-of-school socioeconomically deprived children being 32.2 million. However, even if we consider a 50 percent decrease in child labour in India by the year 2022, considering the 2011 figures as the benchmark, we can still assume that around 5 million children are still working. Considering this, the data reporting offences under the Child Labour (Prohibition & Regulation) Act is extremely low as evidenced below.

Year-wise Data (of overall India) for Child and Adolescent Labour (Prohibition & Regulation) Act, 2016:

2016			2017			2018			2019			2020		
I	V	R	I	V	R	I	V	R	I	V	R	I	V	R
204	384	0.0	462	685	685	464	810	0.1	770	1215	0.2	476	705	0.1

4. Child Marriage:

Trend from 2016-2020 under Prohibition of Child Marriage Act:

2016	2017	2018	2019	2020	

Incidence	Crime Rate	Incidence	Crime Rate	Cases	Crime Rate	Cases	Crime Rate	Cases	Crime Rate	Percentage Share in Total SLL Crimes
326	0.1	395	0.1	501	0.1	523	0.1	785	0.2	0.0

5. Mission Vatsalya:

Integrated Child Protection Scheme (ICPS) was launched in 1975 seeking to provide an integrated package of services in a convergent manner for the holistic development of the child from 0-6 years. In the year 2021-22, the nomenclature of ICPS was changed to 'Vatsalya Mission'. Six services are provided under the Scheme: (i) Supplementary nutrition, (ii) non-formal pre-school education, (iii) Immunization, (iv) Health Check-up, (v) Referral services and (vi) Nutrition and Health Education. For the allocation of funds, the Government of India has embarked upon a programme of expansion of ICDS Scheme with emphasis on Quality. The mission seeks to provide for the care and protection of "Children in Need of Care and Protection" and "Children (Juveniles) in Conflict with the Law." and strengthening and preventing family dissolution, preventing homeless and destitute children -

- Give care, protection, development, and rehabilitation support and emergency outreach services.
- Building a safety net for children and adolescents who require care and protection
- Develop a plan for communities and families to stop putting kids in institutions
- Programs that provide services to children in vulnerable categories
- Links to reunify children with their birth family, promote adoption, foster care, and sponsorship
- Establishment and use of Child Protection Units at the National, State, and District Levels

- JJB, CWC, SJPU, and CPU supporting and bolstering the juvenile justice infrastructure

6. Out-of-School Children: Samagra Shiksha Abhiyan

The Union Budget, 2018-19, has proposed to treat school education holistically without segmentation from pre-nursery to Class 12. Samagra Shiksha³ - an overarching programme for the school education sector extending from pre-school to class 12 has been, therefore, prepared with the broader goal of improving school effectiveness measured in terms of equal opportunities for schooling and equitable learning outcomes. It subsumes the three erstwhile Schemes of Sarva Shiksha Abhiyan (SSA), Rashtriya Madhyamik Shiksha Abhiyan (RMSA) and Teacher Education (TE).

The scheme envisages the 'school' as a continuum from preschool, primary, upper primary, secondary to Senior Secondary levels. The vision of the Scheme is to ensure inclusive and equitable quality education from preschool to senior secondary stage in accordance with the Sustainable Development Goal (SDG) for Education.

The major **objectives** of the Scheme are provision of quality education and enhancing learning outcomes of students; Bridging Social and Gender Gaps in School Education; Ensuring equity and inclusion at all levels of school education; Ensuring minimum standards in schooling provisions; Promoting Vocationalist of education; Support States in implementation of Right of Children to Free and Compulsory Education (RTE) Act, 2009; and Strengthening and up-gradation of SCERTs/State Institutes of Education and DIET as a nodal agencies for teacher training. The main **outcomes** of the Scheme are envisaged as Universal Access, Equity and Quality, promoting vocationalist of Education and strengthening of Teacher Education Institutions (TEIs).

For detailed information, you may refer to “ **CHILD CARE & PROTECTION MANUAL FOR SJPU – A MANUAL FOR SJPU / POLICE OFFICERS⁴**” PREPARED BY: PRAYAS

³ <https://samagra.education.gov.in/about.html>

⁴ https://prayaschildren.org/wp-content/uploads/2022/07/SJPU_NIPCCD_Manual_FINAL_24-AUG-2012.pdf

INSTITUTE OF JUVENILE JUSTICE in collaboration with NATIONAL INSTITUTE OF PUBLIC COOPERATION AND CHILD DEVELOPMENT (NIPCCD).

ROLE OF STAKEHOLDERS FOR CHILD PROTECTION:

Role of family and Community in Child Protection

From the birth of the child, she / he spends her / his most of the time with his family. The family provides a sense of happiness, safety and security to the child in most vulnerable times. The parents of the child or other members of the family, therefore, can provide the best environment a child needs to grow into his full potential. The parents or member of the family with whom the child resides can educate the child about the abuse and the contact persons when in distress and can be alert around the persons, whether their relatives, around whom the child feels uncomfortable or unsafe. Further, as a community, we can be aware and be active when finding any child in distress and contact and report the adequate authorities to help the child.

All the compulsory statutory services regarding child protection, in each district of India:

- **Juvenile Justice Board for CCL:** The objective behind the Constitution of the Juvenile justice board was to provide reformation and rehabilitation to a child who has committed any offence and not to hold the child guilty by punishment. The board consists of Metropolitan Magistrate or Judicial Magistrate of First Class who must have at least 3 years of experience and two other members who should be social workers and at least one of whom should be a woman. Those social workers should be active participants of social work, public welfare, health or education activities for at least 7 years or practising degree holders in child psychology, psychiatry or law. Some roles of JJB are as follows:
 - Board (Section 8(3) of the (J. J. Act, 2015) will ensure informed participation of the child, parents or guardians in the whole process.
 - Ensure that the child's rights are being protected in the whole process of inquiry, apprehension and rehabilitation.
 - Ensure that legal aid should be available for the child through various legal services institutions.

Child Welfare Committee (CWC) for CNCP: The Child welfare committee is constituted to deal with the child in need of care and protection under Section 27 of the J. J. Act, 2015. Under this, there shall be one or more than one child welfare committee in every district of the state to perform duties in respect of the children in need of care and protection. It consists of Chairman and other 4 members out of which at least 1 should be a woman and another one should be an expert with regard to matters concerning children. The members of the committee also undergo through 2 months training when they first become members of the committee.

Role of CWC are as follows:

- Conduct inquiry on the matters related to the safety of the children and will direct to investigate and submit reports in issues related to the child to District child protection unit, child welfare officers, and non-governmental organisations.
 - Conduct the inquiry to find a fit person who can take care of children who are in need of care and protection.
 - The committee will select the institution to shift the child that requires special support on the basis of the child's age, disability, gender and need.
 - The committee will ensure rehabilitation, restoration, care and protection to the child. It can give instructions to parents or guardians or the people who are fit to provide facilities necessary for the well-being and proper development of the child.
- **Child Protection Units:** Some functions of the CPUs are to:
 - Ensure that there is an individual care plan and that the plan for every recovered/traced child and that the plan is regularly reviewed. Monitor the implementation of the plan

- Map all child related service providers and services in the district for creating a resource directory, and link the missing/recovered child to the schemes. Share the available information with the Board and Committee from time to time
 - Identify and support credible voluntary organizations to implement program components of the ICPS
 - Facilitate transfer of children at all levels for either restoration to their families or placing the child in long or short-term rehabilitation through sponsorship, kinship care, in country adoption, foster care
 - Maintain record of run- away children from child care institutions
 - Maintain a district level database of missing/traced children in institutional care and upload the same on designated portal. DCPU also has to update and share details of children availing the facility of open shelter and of children placed in foster care
- **Special Juvenile Police Units:**
As per JJ Act, Special Juvenile Police Units (SJPU) are to be set up in every district and city to co- ordinate and upgrade the police interface with children. All the police officers, designated as child welfare officers (now known as Child Welfare Police officers) in the district/city are members of SJPU. **"Special Juvenile Police Unit "** means a unit of the police force of a State designated for handling of juveniles or children. In every police station at least one officer with aptitude and appropriate training and orientation may be designated as the 'juvenile or the child welfare officer' who will handle the juvenile or the child in coordination with the police. A Special Juvenile Police Unit, of which all police officers designated as Juvenile/Child Welfare officers, to handle juveniles or children will be members, may be created in every district and city to coordinate and to upgrade the police treatment of the juveniles and the children.
- The police in India, created as a by-product of 1857- Indian war of Independence under the Indian Police Act 1861, were traditionally trained to enforce the

provisions of the Indian Penal Code, 1860, and the local and special laws, in accordance with the Indian Evidence Act and Code of Criminal Procedure, 1973. Few police-officers were exposed to the modern concepts of the Juvenile Justice System, rights of the child, child protection, welfare and development, National Policy on Children, juvenile detention and institutional services, non-institutional alternatives, juvenile aftercare, public participation in juvenile correction and the like. Over the years, the police across the country have become aware of the various provisions of the JJ Act and other child related legislations.

- **Role of voluntary organizations:**

As of today the most important role in child protection is played by the voluntary organizations. They have established various children homes, provide education through creating education schemes or programs or enrolling the children in the nearby schools, providing meals and ensuring safety of the children by providing a secure environment and counselling to the children. The voluntary organisations such as Prayas are working day and night to protect these children in need of care and protection and securing their rights and providing as best they can for the better future of these children by providing vocational courses as well and legal aid, if needed .

- Work with police for conducting awareness generation programmes to ensure collection of information from the community.
- Inform the police in case information regarding a trafficker or of a possible crime is received. Complaint can also be filed in case a victim requires any help.
- File a complaint with the police in order to report an incident of trafficking
- Ensure logistical support is available with the rescue team prior to rescue operation
- Assist in formation of the rescue team as per requirements of law.
- Help the police in explaining the situation to the victim and counseling him/her.

- **Institutional Framework** – Observation Home, Special Home, Place of Safety for juveniles & Children’s Home & Shelter Home-cum-Drop in Centres for Children in need.
- **Non institutional care approach:** It is a range of facilities and services that reach out to children who are without family or family support. Non institutional care can either be provided by keeping the child in the family itself or in a family-like or family-based environment. The primary non institutional care provisions are adoption, foster care, sponsorship, and aftercare. The non-institutional approach and rights of a child to grow in a family or in a family-based environment has been included or stated in several key documents/legislation/policy/scheme directly or indirectly pertaining to children in India⁵.

PRAYAS’ EXPERIENCE:

Prayas originated out of the Missing Persons Squad, a Unit of the Delhi Police Crime Branch of which the author happened to be the Deputy Commissioner during 1985 to 1990. The so-called ‘Neglected Children’ taken charge of by the police themselves or through organisations and social workers who could not be restored or taken further in the legal course as laid down under the Juvenile Justice act 1986, had to be looked after temporarily. They were kept in one of the designated places-which was designated as the Juvenile Aid Centre (JAC), later in 1988 connected to a Jahangirpuri (North Delhi) slum-based Centre set up for the fire-disaster affected children, named Prayas JAC⁶.

⁵<https://satyarthi.org.in/wp-content/uploads/BondedLabor/English/Summary%20of%20the%20Child%20Protection%20Laws%20in%20India.pdf>

http://eggp.inflibnet.ac.in/eggpdata/uploads/eggp_content/S001608/P001809/M027673/ET/1520851538NonInstitutionalCare.pdf

Realising that Delhi Police did not have wherewithal to run this organisation and the facilities being created for these Street, homeless, slum-based and vagrant children-at times indulging in petty offences which didn't call for any legal action, this Organisation was registered as the 'Prayas Juvenile Centre (Society) in 1989 with the Police Commissioner Vijay Karan as the President and this author as the General Secretary with eleven other highly motivated policemen and Policewomen drawn from different ranks. Genesis of Juvenile Justice processes evolving from Delhi Police, subsequently joined by Delhi Social of Social Work & Shramik Vidya Peeth (turned into massive national level organisation called Jan Shikshan sansthan with presence in over 300 districts now under the Ministry of Education and Skill Development) – Prayas Juvenile Aid Centre, initially comparable to Juvenile Aid Police Unit (JAPU) of Mumbai Police, has grown into one of the largest NGOs in the country. They adopted the legal concept of care, protection, treatment, development, rehabilitation and social reintegration of Neglected & Delinquent juveniles under Juvenile Justice Act, 1986, now called the Children in Need of Care & Protection (CNCP) and Children in Conflict with Law (CCL) under the Juvenile Justice (Care & Protection of Children) Act 2000/2015 .

Prayas JAC centre thus initiated the first ever integrated partnership project between police along with the social workers and agencies for the children's protection/holistic development & the stakeholders of the Juvenile Justice System, presently called Juvenile Justice Board (JJB), Child Welfare Committee (CWC), Special Juvenile Police Units (SJPU), District Child Protection Unit (DCPU) Child Helplines (1098) and a range of Institutional and non-Institutional alongside the Statutory and non-statutory services- which became an important segment forming the nucleus for the evolution of the Child Protection etc. within the juvenile justice System. Prayas Institute of Juvenile Justice (apex body of Prayas JAC) participated in the drafting of the Amendments of the J.J. (Care & Protection) Act 2000. It contributed in expanding the charter of activities, responding to children's needs in the community setting, dynamics of police & social work, conflicts on resolution courses and the developing model of juvenile justice.

Prayas JAC Society is now a national level, child, youth and women centric community-based non-profit service delivery organization, directly accessing marginalized, vulnerable, destitute, deprived, trafficked, run-away and missing children besides the marginalized women, youth and homeless people. Presently, run by 701 professionals, through 252 Centres & Units, it directly serves day-to-day nearly 40,000 beneficiaries running intensive outreach programs in 10 States/Union Territories, namely, Delhi, Bihar, Assam, Arunachal Pradesh, Andaman & Nicobar Islands, Gujarat, Rajasthan, Haryana, Jharkhand and Kashmir. Mostly carrying out direct interventions for the children, youth, women, homeless and others in need of care and protection through 38 Homes/Shelters/Children Homes, 06 Child Helplines (1098) for distressed children, Women and girl children related, Crisis Intervention Centre. Prayas is running other programs concerning the communities in disaster and multiple service delivery programs on the issues relating to education, nutrition, health services, vocational training and life-skills. These programs are being run by Prayas JAC Society and connected the entities (Societies) like, the 5 Jan Shikshan Sansthans (JSSs) and a Section 8 Non-profit Coy called, Sanchay Prayas Swavlamban Sansthan (SPSS).

NATIONAL STUDY ON CHILD ABUSE

As the Indian Chapter of the UN-Studies on Global Violence Against Children, in 2005-7, on behalf of the Ministry of Women and Child Development, GOI, supported by UNICEF and Save the Children Fund, Prayas conducted the largest-ever Study on Child Protection, called the National Study on Child Abuse-which became the basis for several policy and legislative changes, including the POCSO (Protection of Children against sexual Abuse) Act 2012.

The study was conducted across 13 states of India. The country was divided into 06 zones: North (Delhi & Rajasthan), South (Kerala & Andhra Pradesh), East (West Bengal & Bihar), Western Zone (Goa, Gujarat & Maharashtra), Central Zone (Madhya Pradesh & UP), North-Eastern Zone (Assam & Mizoram)

A multi stage sampling design used for the study, State, District, Block and Respondents

constitute the four stages of sampling. This was one of the largest empirical country studies of its kind in the world with a total of 17,500 respondents covered against the targets of 18, 200.

The various forms of abuse specified for the study included:

- Emotional abuse
- Physical abuse
- Sexual abuse
- Girl Child neglect

Problems

Across different kinds of abuse, generally, the age of maximum abuse is between 9 to 12 years.

The national study found that the abuse gained momentum at the age of 10 and peaked between 12 to 15 years. Children between the 5-12 years age group are most at risk of abuse and exploitation. In UNCRC the globally accepted standard is 18 years.

Sexual Abuse:

- 53.22% of children reported having faced one or more forms of sexual abuse.
- 21.90% of child respondents reported facing severe form of sexual abuse.
- Out of the child respondents 5.69% reported being sexually assaulted.

Physical Abuse:

- Two out of every three children were physically abused
- Out of 69% children physically abused in 13 sample states 54.88% were boys.
- Over 50% of children in all the 13 sample states were being subjected to one or the other form of physical abuse.
- Out of these children physically abused in family situations, 86.6 % were physically abused by parents.
- 65% school going children reported facing Corporal Punishment i.e. two of the three children were victim of corporal punishment.
- 62% of Corporal punishment was in Government and Municipal schools.
- Most children did not report the matter to anyone.
- 50.2 % of children worked seven days a week.

Emotional Abuse and Girl Child Neglect:

- Every second child reported Emotional Abuse
- Equal percentage for both girls and boys reported facing Emotional Abuse.
- In 83% cases parents /close family were the abusers.
- 48.4 % of girls wished they were boys.

Recommendations from the Study:

- Training of various stake holders on issues related to child abuse
- Capacity building of children
- Formulation of state level plan of action to address child abuse
- Developing program based on targeted interventions
- Developing IEC materials
- Media campaigns
- Review of existing laws
- Legislation of new act on child abuse
- Clearly, this will not be enough, the Government, civil society and communities need to complement each other and work towards creating a protective environment for children
- Recommendations and Outcome emerging out of the Study presented to the Planning Commission and the MWCD, GOI
- Enactment of POCSO, 2012

CATEGORIES OF INTERVENTION:

The various levels/categories of intervention involved in child protection - early childhood care and development (0-6 years), elimination of child labour under hazardous/non-hazardous conditions (up to 14 years), all children to go to school to fulfill their basic right to education (06 to 14 years), protecting children from being trafficked for commercial and sexual exploitation including forced labour, protection of children affected by mental & physical disabilities, serious health problems and HIV/AIDS, adolescents and

youth in difficult circumstances need to be addressed as an inclusive vulnerable category (14-18 years), education coupled with skills for economic empowerment (12-18 years)

ROLE AND RESPONSIBILITIES OF POLICE IN PROTECTION OF VULNERABLE GROUP

In a civil society, the police have a critical role to play. They maintain peace and tranquillity; and they uphold the rule of law, which is a hallmark of democracies. Furthermore, in modern times, they are called upon to shoulder several welfare functions, esp. in respect of weaker and vulnerable sections of society. This is abundantly shown by their handling of vulnerable groups and in the protection of their rights in difficult circumstances.

ROLE OF THE POLICE IN CHILD PROTECTION

PROVISIONS

- Setting of special juvenile police unit in every police station
- Police officers to be instructed and trained in child issues
- Handcuff of juvenile/child prohibited
- Child / Juvenile can't be kept in jail or lock-up

PRODUCTION OF JUVENILE

- Special Juvenile police to produce juvenile before juvenile justice board
- Police officer may hand over the juvenile to VO
- Produce the juvenile before the JJB
- Juvenile must be produced immediately before the JJB
- Police must inform the parents about apprehension of the juvenile

PRODUCTION OF CHILD

- Special juvenile police to produce the Child in need of care and protection before the child welfare committee
- Besides police, social worker, public servant, public spirited citizen, child himself,

- Childline and voluntary organizations can produce a child before the CWC
- The conviction that children are subjects, possessing rights, is central to the UN Convention on the Rights of the Child, 1989.

FUNCTIONS OF SPECIAL JUVENILE POLICE UNIT:-

1. The Special Juvenile Police Unit and Child Welfare Police Officer at the Police Station will handle cases of both Juveniles in Conflict with Law (JICL) and Children in Need of Care and Protection (CNCP) and the Social Worker at the Special Juvenile Police Unit shall be the first line of intervention in all cases, as far as possible.
2. The Special Juvenile Police Unit shall coordinate and function as a watch-dog for providing legal protection against all kinds of cruelty, abuse and exploitation of children and report instances of non-compliance for further legal action.
3. The Special Juvenile Police Unit shall take serious cognizance of adult perpetrators of crimes against children and ensure that they are apprehended immediately and booked under the appropriate provisions of the law.
4. The Special Juvenile Police Unit shall ensure the registering; linking and monitoring of information regarding missing children received at the police station, and shall investigate immediately with the cooperation of the Missing Persons Squad, Crime Branch being the Nodal Agency of Missing Persons.
5. The Special Juvenile Police Units shall work with voluntary organisations, local governing bodies, community based organisations in identifying juveniles in conflict with law as well as reporting cases of violence against children, child neglect, child abuse and exploitation.
6. The Special Juvenile Police Unit shall maintain a list of NGOs/voluntary organisations in their respective jurisdiction, and shall monitor the activities to prevent all crimes against children, specifically trafficking, illegal adoption and detention of children.

7. The Special Juvenile Police Unit to establish & maintain contacts with experts from various fields with the right credentials for their assistance/cooperation in child related matters, as and when required⁷.

POLICE ORGANIZATION AND FUNCTIONING

One can see that the role of police in the enforcement of JJ Act, which is extant throughout the country, is as substantial as it is critical. The moot question is: Is the law being enforced in spirit and letter? Are law enforcement authorities alive, aware and informed about their legal and organization responsibility?

WAY FORWARD: CHILD FRIENDLY POLICING

To improve the implementation of the Act, the role of state agencies, such as the police handling juvenile delinquency cases need to be reviewed carefully and objectively.

The role of the police officer in the Justice system is noteworthy and has an evident impact on the juvenile. Typically, children come into contact with the police either when they are in need of care and protection or in conflict with the law. This contact therefore occurs at times when a vulnerable child is most in need of support and guidance. Prayas, set up with the contributions of the police community, in its objective to serve the vulnerable children, contributed to the formation of the Special Juvenile Police Unit. Through Police, the first interaction of a child with the criminal justice system takes place. Therefore, from there the perspective of the child regarding the criminal justice system takes its shape. If the Police officer is rude or ill-treats the child, it can impact the child in the long term which is why it is necessary to sensitize the police officers regarding handling/dealing with the victim child and the juvenile in conflict with law.

Prayas prepared a manual for the training of Special Juvenile Police Unit/Police Officer in partnership with National Institute of Public Cooperation and Child Development

⁷ <https://dpju.in/funciuvenile.php>

(NIPCCD), Ministry of Women and Child Development, Government of India. the form of Standard Operational Procedure (SOP) to enable the Police Officers to take appropriate action at every step i.e., from the moment he comes across a child in need of care and protection or a juvenile in conflict with law, to understand how to interpret and apply in the given circumstances, the measures that are supposed to be taken while tackling a given situation.

Further, Statutory Monitoring & Social Audit of the enforcement through central, state, districts & city advisory boards need to be held to keep a regular check on the workings of the various stakeholders of JJ Act. Moreover, the adequate facilities & services should be provided as per the different categories of juveniles & children, including beggars, street and working children. The fit institutions & persons besides places of safety provided with large-scale designations to ensure safety and growth of the child. There has to be a Restoration, rehabilitation & social reintegration to be flexible & comprehensive. Furthermore, there needs to be complete separation of juvenile justice/ child care provision from the routine judicial proceedings so that the negative impact on the child can be minimised.

From the time when the path breaking Children Act 1960 was passed as a national legislation, combining various states/UTs laws on children, till now when the Juvenile Justice (Care and Protection of Children) Act 2015, operates in the country, there has been a sea change in the legal and policy perspectives and the given role of police, however the actual role is yet to come in the relation between the children and the Police, to enable the latter to be called child friendly. Instead of bringing about the changes in law, which is passing through the Indian Parliament today, there is a definite need to just implement the law in its letter and spirit, as has been strongly ruled by the Honorable Supreme Court in the cases of Salil Bali and Subramaniam Swamy.

Conclusion:

The empowerment of children by ensuring their human rights and dignity provides an opportunity to change, the change which is required for the growth and development of

our country. The way we deal with our children speaks volumes of our own character and ensures in laying a concrete foundation for the future generations to follow. Undermining the value of a child undermines the value of our nation.

To conclude, it may be mentioned that the Government of India has over the years brought progressive policies, legislations and programmes for the well-being of children of India. The Integrated Child Development Scheme (ICDS) or Mission Vatsalya and Childline Services are two programmes that are the largest in the world which supports the development and protection of children in India. However, despite all the best efforts, the situation of children and child rights in India is grim and far beyond any satisfactory level. Thus, nothing less than a consolidated and holistic approach from all the stakeholders is necessary and desirable towards integrating income generation, providing access to education, health services, access to safe water and a healthy, protective environment. This can change the lives of millions of children and ensure their rights for survival, protection, development and participation.

Amod K Kanth

General Secretary, Prayas JAC Society
Jt. Coordinator, NITI Aayog-CSO Standing Committee
Former DGP & Chairperson-DCPCR & DWSSC

Prayas Juvenile Aid Centre (JAC) Society
59, Tughlakabad Institutional Area
New Delhi-110062, India
Telefax: 91-11-29955505, 29956244
Email: prayas@prayaschildren.org, kanth_amod@rediffmail.com
Website: www.prayaschildren.org