



**TRAINING MODULE FOR  
PROBATION OFFICERS AND  
LEGAL SERVICES LAWYERS  
ATTACHED TO THE  
JUVENILE JUSTICE BOARDS**



**NATIONAL LEGAL SERVICES AUTHORITY**





**TRAINING MODULE**  
**FOR**  
**LEGAL SERVICES LAWYERS AND**  
**PROBATION OFFICERS ATTACHED TO THE**  
**JUVENILE JUSTICE BOARDS UNDER THE**  
**JUVENILE JUSTICE (CARE AND PROTECTION OF**  
**CHILDREN) ACT 2015**

**NATIONAL LEGAL SERVICES AUTHORITY**

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## National Legal Services Authority

12/11, Jam Nagar House Shahajhan Road, New Delhi – 110011

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*T. S. Thakur*  
*Chief Justice of India*

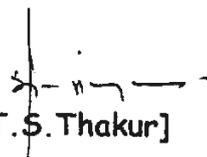


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October 5, 2016

**MESSAGE**

Every child in this large country has the right to not only dream about his/her welfare but also to pursue the same. Around 40% of our population today comprises children. It is, therefore, imperative that the State plans strategies and takes concrete steps for their protection, safeguard and well being. Several legislations have been enacted in the pious hope that the same will help the children, yet, their implementation has been generally poor. There is, therefore, an urgent need to train Legal Service Lawyers and Probation Officers to make the system sensitive to the demands of Child Welfare and to ensure unimpaired functioning of the Juvenile Justice Boards. NALSA has, in this regard, taken upon itself the duty to train the Legal Service Lawyers, Para-legal Volunteers and the Probation Officers and designed a 'Training Module' that serves the purpose of a handy manual for all concerned. The Module is a step in the right direction which will prove useful to all Legal Service Lawyers and Probation Officers working tirelessly for the betterment of children. I congratulate NALSA for this thoughtful initiative and hope that NALSA will continue to work in this direction for the benefit of the children on whom depends the future of this nation.

  
[T. S. Thakur]



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*Anil R. Dave*  
*Judge*  
*Supreme Court of India*  
&  
*Executive Chairman*  
*National Legal Services Authority*



*7, Krishna Menon Marg*  
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### MESSAGE

Children are the supreme asset of any Nation and the greatest gift to humanity. Children take the society forward and help in the development of the Nation. Since the children are the future of any society, it is imperative for the society to provide a good environment for their healthy upbringing and development. Thus, only by paying attention to the needs of the children, the future of the society can be secured.

India constitutes 16% of the world population, occupying 2.42 per cent of the land area. India has more working children than any other nation. Children are dying of starvation, they are sacrificed, trafficked and sold. There are many children who are more vulnerable than others and need special attention like homeless children, migrant children, street and runaway children, orphan or abandon children, working children, children of prostitutes, etc.

The lawyers who are on the panel of the NALSA are normally young but they are keen to render their services to those who are needy. So as to see that they are properly groomed, the NALSA also imparts training to them so that they can extend still better professional services to the children belonging to weaker sections of the society and particularly to the children who are in need of such services.

For the aforesaid purpose, it was felt that a Training Module be prepared for the lawyers rendering their services to such children and persons helping such children through the NALSA. Accordingly, a Training Module has been drafted for Legal Services Lawyers and Probation Officers attached to the Juvenile Justice Boards under the Juvenile Justice (Care and Protection of Children) Act, 2015. On the basis of a draft Module prepared, the NALSA had conducted a pilot Training Programme for Probation Officers and Legal Aid Lawyers attached to the Juvenile Justice Boards for the States of Maharashtra, Gujarat, Goa, Daman & Diu, Dadra & Nagar Haveli and Rajasthan from 27<sup>th</sup> to 30<sup>th</sup> August, 2016 at Maharashtra Judicial Academy in which about 40 participants had participated. The said Module has been now finalized and I am happy that it is being released shortly.

I am sure that this Training Module will be very useful to the Lawyers and Probation Officers who are rendering their services to the NALSA and with the help of the Module, they will be able to serve the most vulnerable section of our society in a better manner.

September 26, 2016

*Anil Dave*  
( Anil R. Dave )



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*Madan B. Lokur*  
*Judge*  
*Supreme Court of India*



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## **FOREWORD**

At one point of time, despite our country being a signatory to the Convention on the Rights of the Child, issues relating to children were not being given the importance they deserved. The Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted but again despite the progressive legislation, its implementation was not being given due importance. Now that the Juvenile Justice (Care and Protection of Children) Act, 2015 has been enacted and being a legislation of comparatively recent origin, it is expected that the rights of children will be recognized and given due importance.

Although the rights of children encompass several aspects, what is of immediate importance is the reintegration into society of those children who have perhaps gone astray and are accused of committing an offence. For the reintegration and rehabilitation of these children, Probation Officers play an extremely important role in that they are the ones in touch with the children and they are the ones who can provide effective guidance not only to decision makers but also to the children to facilitate their restoration to society.

Keeping this in mind the National Legal Services Authority (NALSA) which has played an important role in persuading the State Legal Services Authorities and District Legal Services Authorities to provide free legal aid to children in conflict with law felt that training Probation Officers is as important as rendering free legal aid to children in conflict with law. Accordingly, NALSA decided to prepare a training module not only for legal aid lawyers providing free legal services to children but also for Probation Officers attached to the Juvenile Justice Boards under the JJ Act of 2015.

The training module covers several aspects of concern. It begins with an overview of the rights of a child and an overview of the JJ Act of 2015. Thereafter, it highlights the role and responsibility of a Probation Officer and also concerns itself with issues of children as victims rather than the accused.

It hardly needs to be said that no one is born a criminal. Therefore, it is important to understand why some children actually come into conflict with law. There could be several circumstances beyond the control of a child and there could also be created circumstances which compel a child to violate the law, such as drug addiction. It is, therefore, necessary to “understand” children in conflict with law and the training module has devoted two chapters to these concerns. It is important for a Probation Officer and indeed for all members of the society to make efforts to bring children on the right track when they go astray or are in conflict with law for reasons beyond their control or have found themselves

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in conflict due to created circumstances like the use of drugs. This is where communication skills and counselling gain importance and the training module has provided for this also.

Once a child is brought before a Juvenile Justice Board, his or her case deserves to be handled with great sensitivity. A child cannot be treated as a statistic in the justice delivery system. Therefore, preparing a social investigation report, an individual care plan and providing legal services gain importance. The training module takes care of these obligations retaining the focus on reintegration and rehabilitation of children in conflict with law.

The training module also draws inspiration from a battery of eminent contributors and several decisions rendered by the courts not only on all significant matters but also draws on the experience of those on the field and legal aid lawyers. This collaborative effort is bound to give positive results.

What is of interest is that before finalizing the training module, NALSA conducted a pilot programme in the Maharashtra Judicial Academy. The feedback received from a very large number of participants was positive and many of them frankly expressed the view that they were not fully aware of their duties and responsibilities as Probation Officers and as others vitally concerned with the juvenile justice system. The result of the exercise was very encouraging and heartening and it adds to the credit of NALSA that it is able to take all stakeholders along with it.

A word of caution must nevertheless be added, which is that the training module may evoke different responses from Probation Officers and legal aid lawyers in different settings. Perhaps, in view of this, some tweaking of the training module might have to be undertaken at some point of time. NALSA should encourage responses not only from the trainers but also from the trainee participants with a view to constantly improve the training module. This is necessary and not difficult. It will encourage NALSA to be in regular touch with the trainers and analyse the feedback they receive from the trainee participants.

The Training Module is a joint and collaborative effort of several people and each one of them must be congratulated for the effort that they have put in and the magnificent result.



( Madan B. Lokur )

07.10.2016

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## PREFACE

The Hon'ble Supreme Court of India on 10.04.2015 passed an order in the case of Sampurna Behrua Vs Union of India Writ Petition (Civil) No. 473 OF 2005 directing NALSA to take urgent steps to develop a training program for the legal services lawyers attached to the Juvenile Justice Boards and the Probation Officers. The program was required to be developed after detailed consultations with the stakeholders including Principal Magistrates, members of the Juvenile Justice Boards, Child Welfare Committees, police officers, NGO's, Child Care Institutions and members of the civil society. The then Executive Chairperson of NALSA Hon'ble Mr. Justice T.S. Thakur assigned the work of preparing the module for training of Probation Officers and Legal Services Lawyers attached to Juvenile Justice Boards to the Committee for Developing a Module for Training of Lawyers.

Accordingly, on 08.09.2015 a meeting of the stakeholders was organised in the premises of the Delhi Judicial Academy. The stakeholders gave their individual opinions about the areas in which the Probation Officers and the lawyers attached to Juvenile Justice Boards would need training. A meeting of stakeholders at the national level was held on 15.10.2015 through video conferencing in the office of NALSA in which we received very valuable inputs, particularly from the State Legal Services Authorities. We have taken up the subjects identified in these two meetings and have prepared suitable modules for training of the Probation Officers and Legal Services Lawyers.

The Probation Officer is one of the most important functionary of the Juvenile Justice system of the country. The Juvenile Justice (Care and Protection of Children) Act 2015 requires the Probation Officer to be informed as soon as a child in conflict with law is apprehended. He/she prepares the Social Investigation Report for the information and use of the Juvenile Justice Board. The report of the Probation Officer is essential in passing the final order of disposition which must also include an Individual Care Plan which is again to be prepared with inputs from the Probation Officer. The role of the Probation Officer is not over even after the release of the child from a 'Home' on completion on his/her tenure or at any time earlier. It is his efficiency and commitment that determines the efficiency of the Juvenile Justice system in the country. Hence the need for his training for the job cannot be overemphasised.

The subjects for training include child psychology, drug addiction, management of drug addiction and communication skills apart from the subjects directly involved in the work of Probation Officer like understanding the legal provisions of the Juvenile Justice (Care and Protection of Children) Act 2015, the preparation of various reports required of the Probation Officers and the task of supervising, mentoring and monitoring the progress of a child in conflict with law in the Juvenile Justice system.

Before the turn of the year the Juvenile Justice Act 2000 was repealed and the new Act of the same name came to be enacted. The rules framed under the Act of 2000 known as the Juvenile Justice (Care and Protection of Children) Rules 2007, extensively described the work of a Probation Officer and included various forms for a report to be submitted by a Probation Officer. We understand that the Rules of 2007 do not apply to the new Act and new rules are being framed to correspond with the new Act of 2015 (which have since been notified).

The module has been prepared with the hope and understanding that despite change in certain provisions of the Act the nature of work of the Probation Officer would continue to be the same although there will be more responsibilities on the Probation Officer as well as on the Juvenile Justice system because of the changes that have been brought about. The resource persons who have contributed to the formulation of the present set of modules are Dr. Shekhar P Seshadri, Professor and HOD, Department of Child and Adolescent Psychiatry, NIMHANS, Ms. Asha Menon, District and

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Sessions Judge (South-east District), Delhi, Ms. Geetanjli Goel, Director, National Legal Services Authority and Officer of Delhi Higher Judicial Service, Ms. Bharti Ali, Co-Founder and Co-Director of HAQ: Centre for Child Rights, Dr. Tejinder Kaur, Joint Director, NIPCCD, Ms. Arlene Manoharan, MSW Fellow, Programme Head Juvenile Justice Centre for Child and the Law, National Law School of India University, Bangalore, Dr. Rajesh Kumar, Executive Director, Society for Promotion of Youth and Masses (SPYM), NIMHANS, Dr. Preeti Jacob, Assistant Professor, Department of Child and Adolescent Psychiatry in NIMHANS, Dr. Deepak Jayarajan, Assistant Professor of Psychiatry Rehabilitation Services, and of course the undersigned who is the Chairperson of the Committee for Developing a Module for Training of Lawyers.

This work would not have been possible without the constant support and guidance of Hon'ble Mr. Justice T.S. Thakur the Chief Justice of India and Patron-in-Chief of NALSA and Hon'ble Mr. Justice Anil R. Dave Judge Supreme Court of India, and Executive Chairperson of NALSA. We also acknowledge with gratitude the contributions made by Dr. Jitender Nagpal, Psychologist of Moolchand Hospital, Mr. Alok Agarwal present Member Secretary of NALSA and Mr. Rajesh Kumar Goel, Additional District & Sessions Judge, Delhi and Registrar, Supreme Court, Ms. Geetanjli Goel, Director, NALSA and Mr. Puneet Sehgal Member, Haryana Civil Services (Judicial) and Project Officer NALSA and Mr. Kumdilong Kessen, who has provided us the logistics support and has supported us by coordinating with the various resource persons.

This is a unique venture by NALSA aiming to reach out to each and every Probation Officer and the Legal Service Lawyer attached to Juvenile Justice Boards all over the country. The new concepts introduced by the new Act are yet to take shape since so far they have not been tested in any case in any court. The rules have not yet seen the light of the day. By the time the module prepared by us is put to work, we may have a set of case laws as well as the rules duly published. Accordingly, the users of the module will have to take into account the changes that may come about after the modules are published.

We seek the blessings of all the stakeholders in this humble yet earnest effort for preparing a training programme for Probation Officers attached to Juvenile Justice Boards and the Legal services lawyers.

Committee for Developing a Module for Training of Lawyers

**Justice Manju Goel,**

Former Judge, High Court of Delhi

**Justice Rekha Sharma**

Former Judge, High Court of Delhi

**Justice Kailash Gambhir**

Former Judge, High Court of Delhi

**Shri P. Vishwanatha Shetty**

Sr. Advocate, Supreme Court of India,

**Prof. P. S. Jaswal**

Vice Chancellor, Rajiv Gandhi National University of Law

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# FOR THE COORDINATORS AND RESOURCES PERSONS

— Justice Manju Goel (Retd.)\*

The Juvenile Justice system in the country uses Probation Officer as one of its main pillars. The inter-disciplinary work is produced keeping in view the principles of participatory learning. We have used a large range of training methods and it is important to share our ideas about the training modules to the course coordinators so that the best out of this modules can be achieved.

## **Who is the resource person**

The modules have been produced with the expectation that they can be used anywhere by any resource person available locally. NALSA, in the recent past, conducted three programmes of training the trainers in which more than a hundred Judicial Officers and lawyers took part. Any of these officers and lawyers having experience in the Juvenile Justice System of the country will be the first choice as a resource person. However, the modules can also be used by lawyers, Judges, academicians and activists even without a prior training in the training methods, since the way to conduct the sessions have been clearly indicated in each module. The Resource Person will do well to acquaint himself/herself with the principles of adult learning. We expect the Resource Persons to be good listeners and good communicators with ability to deal with all kinds of learners including the resistant adult learners and to deal with not so comfortable questions, which at times are sprung on the resource person by the participants.

## **How to use the modules**

Adult learners are different from the school students in as much as they already have some knowledge and information on the subject of training. The adult learners like to build on their already existing knowledge. It is also recognized that learning is faster by doing i.e. by applying the information imparted. Accordingly, in the modules we have included activities that make the participants work with their colleagues and use as well as challenge their existing knowledge. The modules are designed with a view to make the training process efficient and interesting. Each Module has two parts. The first part is the exercise/task for the live sessions of training. The second part consists of the necessary information to deal with the exercise/task. For best results, the information part given in ‘short notes’ should be used by the resource person for his/her preparation before conducting the actual live sessions and should be used also for validation, only after the participants have actually performed the part assigned to them viz. quiz or group discussion etc. For every session the organiser/coordinator shall do well to photocopy the first set of pages containing the Module including the programme, exercises like group discussion, role play, experience sharing etc. The “short notes” provided for each Module should not be handed over till the exercises are over. The resource person can refer to the short notes preferably before the actual session and shall share those at the end for the participants to read for themselves.

## **Time management**

We have given a time management plan in each module. At times it may not be possible to strictly follow the plan as the actual time spent on each part of the module will vary depending upon participation of the groups. However, in case the time allotted turns out to be too short, the resource person may reorganize the time plan to cover the module. We are aware that the training sessions will throw up more questions than what can be dealt with within the given time, but the unanswered questions lead to a quest to be pursued beyond the sessions as well and, hence, would be welcome.

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\*Former Judge, High Court of Delhi

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## **Physical environment**

The number of participants for a session should ideally be around 30. It will be greatly appreciated if the participants are not seated in any hierarchical manner. The seats, as far as possible should not be fixed to the floor so that they may be moved to make small groups. A thought should be given in advance to facilitate breaking the whole group into four or five small groups and such breakout groups may need separate rooms/ spaces where they can carry out their discussion. The coordinator may form the groups in advance so that time is not lost during the session in dividing the whole group into smaller groups.

## **Ice breaking**

A short ice breaking session is extremely useful to motivate the participants in any training session to open up, share and contribute to the discussions in the actual sessions. These ice breaking sessions ensure associative and active rather than passive participation. They are often interactive meaningful fun sessions before a full and focused programme is run. Two small examples are given below by way of suggestions:

1. Each participant is asked to introduce himself/herself by giving the usual information of name and work, adding thereto some interesting fact little known to others e.g. I am Rakesh practicing on the Criminal side in the District Courts of Rohini. Now, I may look obese but I played football and was the captain of the school football team.
2. Each participant is asked to introduce himself/herself with his/her name and work and say in one sentence what he/she expects to gain from the training. No one is allowed to repeat what a participant has already said.

## **TRAINING METHODOLOGY USED**

### **a) Group discussion and presentation:**

Group discussions are meant to provide participants an opportunity to find answers to specific questions given to them with the help of their existing knowledge and experience. In the process they feel to be important contributors in the process of training. They also learn by doing and such learning lasts longer. At the end of the presentation of the views by each group, the resource person may fill the gap of information with his/her own rich experience and learning and can refer to information on the subject given in the book.

### **b) Quiz:**

The quiz given in the modules are not meant to be used as a contest. It is meant to show to the participants that although the topics are familiar, there is still scope to learn about them. The resource person can open a discussion on questions that call for elaborate answers.

### **c) PowerPoint presentation:**

No one can ignore the importance of traditional teaching method of lecturing. PowerPoint presentations provided here are meant to structure the lectures in a time efficient manner. Further, the PowerPoint presentation makes the lectures more effective with audio-visual impact which in turn makes a lasting impression on the mental horizons of the participants. PowerPoint presentation, if not prepared with sufficient acumen can be very distracting. We subscribe to presentations in which the slides show only a few words at a time so that the participants do not have to engage in reading the slides. In case a long sentence is required to be shown in the slide, the speaker should allow the participants to read the same by pausing his own lecture for

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a while. It is not a good idea to have long scripts on the power point slide which is not being read by the speaker but the participants are trying to read the slide and hear the speaker at the same time, not getting anything out of any of the two.

**d) Experience Sharing:**

Experience sharing is the way of extracting from the participants themselves information on the subject for the session. The resource person may supply the information which is not provided by the participants in experience sharing. This method saves the participants of the monotony of hearing what they already know. At the same time, this makes the learning participatory since one person's experience informs the rest of the group. The resource person may supplement the information obtained by experience sharing so that the participants can receive full information.

**e) Brainstorming:**

Brainstorming is thinking together. This term has been used in Session-II, IV, V(a) and V(b) where the participants are expected to discuss in whole group but before actual discussion, they are made to think on each sub-topic with the help of one of their fellow participants.

**f) Role-Play:**

Role-Play is one of the best modes of learning by performing. For this exercise the whole group has to be divided in small groups of say 5. While some participants perform the given role, the others watch and give their feedback. In the process, everyone learns what is intended to be imparted. Needless to say that the ingenuity of the resource persons should not be curbed by the modules that we have designed. We shall gratefully welcome all suggestions which may come from the resource persons and the participants so that our work serves the cause better.

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**SCHEDULE OF THE TRAINING PROGRAMME OF LEGAL SERVICES  
LAWYERS AND PROBATION OFFICERS ATTACHED TO THE JUVENILE  
JUSTICE BOARDS**

**DAY- 1**

9.30 AM to 9.45 AM	Arrival of Participants, Registration and Welcome Tea
9.45 AM to 10.30 AM	Inaugural Session
10.30 AM to 11.00 AM	Tea
11.00 AM to 12.00 PM	Ice Breaking
<b>Session-I</b> (12.00 PM to 1.00 PM)	Overview of the Juvenile Justice (Care and Protection of Children) Act 2015
12.00 PM to 12.30 PM	1. Interactive lecture on overview of Juvenile Justice (Care and Protection of Children) Act 2015 with power point
12.30 PM to 1.00 PM	2. Recapitulation and concluding remarks by one of the participants
1.00 PM to 2.00 PM	<b>Lunch Break</b>
<b>Session- II</b> (2.00 PM to 3.15 PM)	Role and responsibility of a Probation Officer
2.00 PM to 2.10 PM	1. Introduction
2.10 PM to 2.30 PM	2. Brainstorming
2.40 PM to 2.50 PM	3. Distribution of paper for brainstorming
2.50 PM to 3.10 PM	4. Lecture by resource person
3.10 PM to 3.15 PM	5. Concluding remarks by participants or resource persons or visiting dignitaries
3.15 PM to 3.30 PM	<b>Tea Break</b>
<b>Session- III</b> (3.30 PM to 5.30 PM)	Child Rights Learning to deal with Child Abuse and Vulnerability
3.30 PM to 3.50 PM	1. Interactive lecture on Child Rights
3.50 PM to 4.00 PM	2. Recapitulation by one of the participants
4.00 PM to 4.05 PM	3. Introduction to the Subject of Child Abuse and Vulnerability
4.05 PM to 4.15 PM	
4.15 PM to 4.30 PM	4. Understanding self-attitude and perception towards children in the juvenile justice system
4.30 PM to 4.50 PM	5. Understanding Child abuse and learning to deal with it – Part 1

4.50 PM to 5.05 PM 5.05 PM to 5.25 PM 5.25 PM to 5.30 PM	6. Group exercise using a case study 7. Understanding Child abuse and learning to deal with it – Part 2 8. Group exercise using a case study= 9. Summing Up and Feedback
<b>DAY- 2</b>	
<b>Session- IV (9.30 AM to 11.00 AM)</b>	Understanding Children in Conflict with Law
9.30 AM to 9.40 AM 9.40 AM to 10.10 AM 10.10 AM to 10.40 AM 10.40 AM to 11.00AM	1. Introduction 2. Brain storming 3. Lecture by the resource person with or without the help of a PowerPoint 4. The participants will be divided in groups of 5 or 6 and each group will be given one.
11.00 AM to 11.15 AM	<b>Tea Break</b>
<b>Session- IV (11.15 AM to 1.00 PM)</b>	Understanding children in conflict with law (Continuation)
11.15 AM to 12.45 PM 12.45 PM to 1.00 PM	5. Whole group discussion assisted by resource person 6. Concluding remarks
1.00 PM to 2.00 PM	<b>Lunch break</b>
<b>Session- V (2.00PM to 3.15 PM)</b>	Issue of Drug Addiction in Children in Conflict with Law
2.00 PM to 2.10 PM 2.10PM to 2.25 PM 2.25 PM to 2.40 PM 2.40 PM to 3.05 PM 3.05 PM to 3.15 PM	1. Introduction 2. Activity- 1 Exercise on facts about Drugs 3. Activity-2 Questionnaires for brain storming 4. Lecture with or without power point presentation 5. Concluding remarks <i>(By one of the participants)</i>
<b>3.15 PM to 3.30 PM</b>	<b>Tea Break</b>
<b>Session- VI (3.30 PM to 5.30 PM)</b>	Communication skill for Probation Officer
3.30 PM to 4.00 PM 4.00 PM to 5.30 PM	1: Introduction 2: Communication

<b>DAY- 3</b>	
<b>Session- VII</b> (9.30 AM to 11.30 AM)	Counselling
9.30 AM to 10.00 AM	1. Introduction
10.00 AM to 10.30 AM	2. Activity, Small Group Discussions and Whole Group Discussions
10.30 AM to 11.15 AM	3. Case study Presentation, Small Group Discussions
11.15 AM to 11.30 AM	4. Whole Group Discussions Concluding Remarks
<b>11.30 AM to 11.45 AM</b>	<b>Tea Break</b>
<b>Session VIII</b> (a) (11.45AM to 1.15 PM)	a. Social Investigation Report
11.45 AM to 11.50 AM	1. Introduction and Ice-Breaker Session
11.50 AM to 12.05 PM	2. Understanding the importance of the SIR in informing the multi-disciplinary inquiries and orders of the JJB
12.05 PM to 12.20 PM	3. Activity- 1 Experience Sharing
12.20 PM to 12.35 PM	4. Activity- 2 Experience Sharing
12.35 PM to 1.05 PM	5. Activity- 3 Reading and group Discussion
1.05 PM to 1.15 PM	6. Wrap up by facilitator
1.15PM to 2.00PM	<b>Lunch Break</b>
<b>Session- VIII</b> (b) (2.00PM to 3.15 PM)	b. Re-integration and Rehabilitation
2.00PM to 2.20 PM	1. Introduction and Lecture
2.20 PM to 3.05 PM	2. Group Discussions: Presentation and whole group discussions
3.05 PM to 3.15 PM	3. Group discussion: Presentation and whole group discussion Concluding Remarks
3.15 PM to 3.30 PM	<b>Tea Break</b>
<b>Session- IX</b> (3.30PM to 5.30 PM)	Individual Care Plan
3.30 PM to 3.40 PM	1. Introduction <i>(The resource person will explain the concept of the Individual Care Plan)</i>
3.40 PM to 3.55 PM	2. Quiz/Questionnaire
3.55 PM to 4.15 PM	3. Lecture with/without power point
4.15 PM to 4.30 PM	4. Role play and exercise
4.30 PM to 5.20 PM	5. Whole group discussion led by resource person
5.20 PM to 5.30 PM	6. Recapitulation and concluding remarks

<b>DAY- 4</b>	
<b>Session- X</b> (9.30 AM to 11.00 AM)	Ethics in the work of Probation Officer
9.30 AM to 9.40 AM	1. Introduction
9.40 AM to 10.10 AM	2. Case Study Presentation, Small Group Discussions and Whole Group Discussions
10.10 AM to 10.50 AM .	3. Role Play, Small Group Discussions and Whole Group Discussions
10.50 AM to 11.00 AM	4. Concluding Remarks
<b>Session- XI</b> (9.30 AM to 11.00 AM)	Ethics in the work of Probation Officer
9.30 AM to 9.40 AM	1. Introduction
9.40 AM to 10.10 AM	2. Case Study Presentation, Small Group Discussions and Whole Group Discussions
10.10 AM to 10.50 AM	3. Role Play, Small Group Discussions and Whole Group Discussions
10.50 AM to 11.00 AM	4. Concluding Remarks
<b>Session- XII</b> (11.30 AM to 4.45 PM)	Field visit to Observation Home and/or De-Addiction Centre for Children
<b>DAY – 5</b>	
<b>Session- XIII</b> (10.00 AM to 11.00 AM)	Role of Legal Services
10.00 AM to 10.45 PM	1. Interactive lecture on Role of Legal Services Institutions
10.45 AM to 11.00 AM	2. Conclusion
11.00 AM to 11.15 AM	<b>Tea Break</b>
<b>Session- XIV</b> (11.15 AM to 1.00 PM)	Substantive Provisions and case law
11.15 AM to 11.35 AM	1. Introduction
11.35 AM to 1.00 PM	2. Group Discussions: Presentation and group discussions
1.00 PM to 2.00 PM	<b>Lunch Break</b>
<b>Session- XV</b> (2.00 PM to 3.00 PM)	Substantive Provisions and case law (Continuation)
2.00 PM to 2.30 PM	1. Group Discussions: Presentation and group discussions.
2.30 PM to 2.55 PM	2. Quiz
2.55 PM to 3.00 PM	3. Concluding remarks
3.00 PM to 3.15 PM	<b>Tea Break</b>
<b>Session XVI</b> (3.15 PM to 4.45 PM)	
3.15 PM to 3.45 PM	Feedback
3.45 PM to 4.15 PM	Conclusion
4.15 PM to 4.45 PM	Valediction

**MODULE FOR TRAINING OF LEGAL SERVICES LAWYERS AND  
PROBATION OFFICERS ATTACHED TO THE JUVENILE JUSTICE BOARDS  
ON  
AN OVERVIEW OF THE JUVENILE JUSTICE ( CARE AND PROTECTION OF  
CHILDREN ) ACT 2015**

— *Justice Manju Goel (Retd.)\**

**SESSION PLAN**

**Objective**

1. To inform the participants of the various International Conventions and provisions of the Constitution of India and other legal provisions providing various rights to the children.
2. To provide the background for all legislations involving children.

**Expected learning outcome**

1. The Probation Officers and the Legal Services Lawyers will appreciate that their work is not charity to the children but service to them.
2. The Probation Officer and Legal Services Lawyers will be better equipped to assist the Juvenile Justice Boards in discharge of their function

**Programme:**

- |  |            |
|--|------------|
| 1. Interactive lecture on Child Rights       | 30 minutes |
| 2. Recapitulation by one of the participants | 30 minutes |

**Training method**

1. Lecture
2. Discussion

**Tools required:**

1. Facility for power point presentation
2. Flip chart
3. Pens
4. Blue tack

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\* Former Judge, High Court of Delhi

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## SHORT NOTE ON AN OVERVIEW OF THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

— Justice Manju Goel (Retd.)\*

The Juvenile Justice (Care and Protection of Children) Act, 2015 is a new avatar of the Juvenile Justice (Care and Protection) Act 2000. Although the passing of the new Act was expedited by the release of the juvenile involved in the infamous 16<sup>th</sup> December 2012 rape case, the new Act deals with various things apart from a juvenile involved in a heinous crime like rape.

The present Act like the previous one takes into account several international conventions, most importantly the Convention on the Rights of the Child 1989 and also the enabling provisions of the Constitution of India as mentioned in the Preamble of the Act. The broad scheme of the Juvenile Justice (Care and Protection of Children) Act 2015, hereafter referred to as ‘the Act’ or the Juvenile Justice Act is as under:

The Act recognizes children as persons below 18 years of age. They can be dealt with depending upon whether they are in conflict with the law or are in need of care and protection. Children who are alleged to have committed some offence have to be produced before the Juvenile Justice Board (JJB) which conducts an enquiry to find out whether the child who is in conflict with the law was actually involved in the offence. The child can be released if found innocent. Otherwise the Juvenile Justice Board can pass an order as per *Section 18* of the Juvenile Justice Act. These orders maybe:

- a) to allow the child to go home after advice or admonition
- b) direct the child to participate in group counselling or the like
- c) order the child to perform community service
- d) order the child or the guardian to pay fine
- e) direct the child to be released on probation of good conduct and be placed under the care of a parent, guardian or fit person
- f) direct the child to be released on probation of good conduct or be placed under care and supervision of any fit facility
- g) direct the child to be sent to a special home for a period not exceeding 3 years for reformation including education, skill development, counselling, behaviour modification therapy and psychiatric support.

The Board may also make orders directing the child to go to a school, vocational centre, therapeutic centre, de-addiction centre and can prohibit the child from visiting any specified place.

A special provision has been made for children accused of having committed heinous offences if they fall in the age group of 16-18 years. *Section 15* of the Act requires the Juvenile Justice Board to conduct a preliminary assessment with regard to his mental and physical capacity to commit such an offence, the ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence. If the Board finds that the child needs to be tried as an adult, the Board may transfer the trial of the case to a Children’s Court. The Children’s Court conducts a trial and passes an appropriate order subject to *Sections 19* and *21* of the Act and considering the special need(s) of the child and other principles of justice to the child. The Children’s Court does not award

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\*Former Judge, High Court of Delhi

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any sentence of death or life imprisonment. While disposing of the case the Children's Court, if it finds the child to have been involved in some alleged offence(s), the Court is required to pass an order that includes an individual care plan for the rehabilitation of the child including a follow up by a Probation Officer or the District Child Protection Unit or a social worker. The child found to have committed the offence by the Children's Court is also entitled to the reformatory services and rehabilitation services that are available to all other children.

The Probation Officer is an important functionary for the Juvenile Justice Board as all the procedural orders including detention or bail, the final order and the follow up depends upon the reports of the Probation Officer. The Probation Officer can be drawn into the process of reformation and rehabilitation as well.

Any child in need of care and protection can be brought before the Child Welfare Committee (CWC). The Child Welfare Committee makes an ardent effort to restore the child to its family. If the child cannot be returned to a parent or the parent is unable to take care of the child, the Child Welfare Committee may then send the child to a children's home or a fit facility and make a direction for a social investigation. The children who are orphan or surrendered to Child Welfare Committee by the parents or guardian can be placed with a specialised adoption agency. Such children can remain in a fit facility or a foster family till suitable rehabilitation measures are made available. After the child attains 18 years, the State has to take care of his rehabilitation just as in cases of children in conflict with the law. The Child Welfare Committee after an enquiry and on receipt of the Social Investigation Report, can make the following orders if it finds that the child is in need of care and protection:

- a) Declare that the child is in need of care and protection
- b) Restore the child to parents or guardian with or without supervision
- c) Place the child in children's home/fit facility/specialized adoption agency
- d) Place the child with a fit person
- e) Order foster care
- f) Order sponsorship
- g) Direct services like medical attention, psychological support, counselling and the like

There are 14 different institutions created or recognized by the Act for the welfare of the children. The Special Juvenile Police Unit or Designated Child Welfare Police Officer can produce a child before the Juvenile Justice Board or before the Child Welfare Committee depending on whether the child is in conflict with law or is in need of care and protection. Pending enquiry, a child can be housed in an Observation Home or Place of Safety or Open Shelter. After the trial/enquiry is over the child is sent to a Special Home or a Place of Safety depending upon his age. Special Homes are institutions for housing the children and also providing rehabilitation services to children in conflict with the law. In case of Child Welfare Committee, child can be housed in Children's Home or Open Shelter. The District Child Protection Unit has to be established by the State Government for every district under *Section 106* in order to ensure implementation of the Act as well as other child protection measures. Fit facility means a facility being run by government or by an NGO who maybe required to take the responsibility of a particular child for some specific purpose. A Specialized Adoption Agency is a recognized institution that can house, under orders of Child Welfare Committee, orphan, surrendered or abandoned children for the purpose of adoption. Central Adoption and Resource Authority (CARA) is appointed to promote inter country adoptions.

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A special Chapter has been provided for adoption of children who have been declared legally free for adoption by the Child Welfare Committee. The reports of the Specialised Adoption Agency about the prospective adoptive family are available for inspection by the Court before permitting adoption of any child by any family. Similarly, if a foreign national wants to adopt an Indian child in need of care and protection he/she has to go through a process of screening.

All the authorities, institutions, agencies and functionaries under the Act are required to follow the general principles for care and protection of children given in *Section 3* of the Act. Keeping in view the importance of this section, the entire section is quoted below:

3. *The Central Government, the State Governments, the Board, and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely: —*

(i) *Principle of presumption of innocence: Any child shall be presumed to be innocent of any mala fide or criminal intent up to the age of eighteen years.*

(ii) *Principle of dignity and worth: All human beings shall be treated with equal dignity and rights.*

(iii) *Principle of participation: Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.*

(iv) *Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.*

(v) *Principle of family responsibility: The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.*

(vi) *Principle of safety: All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter.*

(vii) *Positive measures: All resources are to be mobilised including those of family and community, for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.*

(viii) *Principle of non-stigmatising semantics: Adversarial or accusatory words are not to be used in the processes pertaining to a child.*

(ix) *Principle of non-waiver of rights: No waiver of any of the rights of the child is permissible or valid, whether sought by the child or person acting on behalf of the child, or a Board or a Committee and any non-exercise of a fundamental right shall not amount to waiver.*

(x) *Principle of equality and non-discrimination: There shall be no discrimination against a child on any grounds including sex, caste, ethnicity, place of birth, disability and equality of access, opportunity and treatment shall be provided to every child.*

(xi) *Principle of right to privacy and confidentiality: Every child shall have a right to protection of his privacy and confidentiality, by all means and throughout the judicial process.*

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(xii) *Principle of institutionalisation as a measure of last resort: A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.*

(xiii) *Principle of repatriation and restoration: Every child in the juvenile justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.*

(xiv) *Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.*

(xv) *Principle of diversion: Measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.*

(xvi) *Principles of natural justice: Basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review, by all persons or bodies, acting in a judicial capacity under this Act.*

In furtherance of these principles, the provisions of the Act specifically provide that the children have to be kept away from the usual adjudicatory mechanism. The children instead of being sent to jail or any other place where offenders or under trials are housed have to be kept in one or the other homes mentioned earlier. The Juvenile Justice Board, Child Welfare Committee or the various authorities dealing with children have to act following information obtained by social investigation. Detention of any child is required to be supported by the facilities for reformation, reintegration, development and rehabilitation. As such an individual care plan is required to be made for every child. Suitable facilities for education, skill development, treatment of mental and physical illness, counselling or group therapy have been provided for in the Act.

On the whole the Act requires that a child in conflict with the law is not condemned and a child in need of care is actually cared for. Even if the child is an offender, he remains a child. The Act also deals with him as needing care so that he develops into a valuable citizen of the country. A child in need of care and protection is cared for with the same end in mind. If the intention behind the Act is to be served in reality, the implementation of the Act has to be pursued in letter and spirit. It is with this objective that the training course for Probation Officers and Legal Services Lawyers is designed.

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Session II  
2.00 PM - 3.15 PM  
Total Time: 1 Hour 15 minutes

**MODULE FOR TRAINING OF PROBATION OFFICERS AND LEGAL SERVICE  
LAWYERS ATTACHED TO THE JUVENILE JUSTICE BOARDS ON  
ROLE AND RESPONSIBILITY OF PROBATION OFFICERS  
UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)  
ACT, 2015**

*– Justice Manju Goel (Retd.)\**

**SESSION PLAN**

**OBJECTIVES-**

1. To inform the Probation Officers of various provisions in the Juvenile Justice (Care and Protection of Children) Act, 2015, with reference to children in conflict with law.
2. To give them a clear perspective of the role of the Probation Officers.

**EXPECTED LEARNING OUTCOME-**

1. The participants will have a wholesome view of the tasks required to be performed by them.
2. The participants will be able to perform the work of Probation Officers with the required sensitivity.
3. The participants will be able to perform the task of probation officer keeping in view their role in reform and rehabilitation of children.

**PROGRAMME**

1. **Introduction** (10 minutes)
2. Brainstorming with the help of Questionnaire no. 1. The quiz is neither evaluative nor competitive. The purpose of the quiz is self-introspection. (20 minutes)
3. Distribution of paper for brainstorming Quiz no. 2. Allowing the participants to reflect on the questions during which the participants will write their own answers to questions in brief. There shall be no discussion this time. (10 minutes)
4. Lecture by resource person, intercepted by the brainstorming questions- the resource person can stop the lecture and allow the participants to find the answers. They can be given 5 minutes to flip through the Act for finding the answers. After the participants have given their response, the lecture can resume. The answers to the brainstorming questions will be pooled on the Flipchart which will be put up on the wall with blue tack. (30 minutes)
5. Concluding remarks by participants or resource persons or visiting dignitaries (5 minutes)

**METHOD**

1. Lecture,
2. Quiz

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\* Former Judge, High Court of Delhi

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3. Brainstorming

**TOOLS REQUIRED**

1. Facility of Power Point Presentation
2. Flipchart
3. Markers
4. Blue tack

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## QUIZ 1 and 2

### QUIZ: 1

1. How does the child and his/her family members look upon you?
  - i. As a part of the police, or
  - ii. As a member of the Juvenile Justice Board
  - iii. As a teacher
  - iv. As a village headman
  - v. What, if none of the above?
2. Did you find any child in conflict with law who is from middle income/higher income group family?
3. Did you ever inform the judge about the cause of child getting involved in an offence? How did you find the cause?
4. How often do you visit the Observation home? What improvement would you suggest therein?
5. Generally speaking, at what stage of a case of the child in conflict with law are you first informed of his/her apprehension?
6. What immediate steps will you take on receipt of such information?

### QUIZ 2

1. What is the purpose of preparing the Social Investigation Report and how does the Probation Officer prepare it?
2. What is the purpose of preparing an Individual Care Plan and how does one prepare such a plan?
3. Can we gather the duties of the Probation Officer from the above discussion?
4. What is the purpose of supervision of the child and how does the probation officer achieve this purpose?
5. In what different ways do you think a wayward child can be reformed?
6. What additional role does a Probation Officer has to play in case of a child in the age group of 16-18 years found involved in a heinous crime?

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## SHORT NOTE ON

### **ROLE AND RESPONSIBILITY OF LEGAL SERVICES PANEL LAWYERS AND PROBATION OFFICERS UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015 WITH A VIEW TO FACILITATE THE RESOURCE PERSONS TO DELIVER AN INTERACTIVE LECTURE**

– Justice Manju Goel (Retd.)\*

#### **Introduction**

1. The two main objectives of punishment are Retribution and Prevention. These two objectives determine the term of punishment which the court has to award. Reform is another attribute of punishment which is mostly taken care of by the prison. When it comes to the question of dealing with a child in conflict with law, the reformatory aspect of punishment comes to the fore. This is not left to the prison; in fact, there is no prison for the child in conflict with law. The Observation Home or Special Home or the place of safety, wherever they are required to be kept by the Board are required to be specially equipped for reformatory needs of the child. The concept of reformation has to be widened by including therein rehabilitation and welfare. Welfare of the child in question is the paramount interest to be kept in mind.

2. Welfare of the child has another name i.e. the best interest of the child which includes the development of the child and realization of the child's full potential. This is higher than reform and rehabilitation. The reintegration of the child in the mainstream without the stigma of a criminal past is the need of the child as well as of the society. The basic distinction between the criminal justice system for the adult and the juvenile justice system is the factor of welfare of the offender which exists in the latter and is altogether absent from the former.

3. The single most important factor in the judicial system dealing with child in conflict with law is the Probation Officer. The Juvenile Justice (Care and Protection of (children) Act 2015, hereinafter referred to as the Act for short, aims primarily to reform and rehabilitate rather than punish with the aim of retribution and deterrence. The Probation Officer, it may be said, is the magic wand without whom the aims and objectives of the Act cannot be achieved. Unfortunately, the situation as is obtained at present is rather dismal. They are not only inadequate in number but are also ill equipped to perform their functions. The facilities and resources required to carry out their task envisaged by the law are conspicuously absent. Worse, they are not fully equipped with the knowledge, skill and attitude appropriate to their work. No university course is available to educate a Probation Officer. The Probation Officer as such has to learn on the job. It is with the aim of facilitating the Probation Officer in acquiring the appropriate knowledge, skill and attitude that the present programme is devised.

4. The presence of the Probation Officer is essential in the system of juvenile justice from the stage of the child's first encounter with the system. The Probation Officer's presence is also essential during the entire course of the legal proceedings and even thereafter during disposal as well as for after care which includes not only the period of detention but also after his release.

5. The State has to provide for infrastructure for working of the Act. Simultaneously the players namely the Juvenile Justice Boards, the Child Welfare Committees, the Children's Courts and the Probation Officers have to fulfill their role in right earnest. Knowledge can be acquired by gathering information from various sources. Skill can be obtained by practice and guidance. However, Attitude is internal and has to be imbibed by the individual with a sincere effort to understand his role and with the desire to deliver the required results. An appropriate attitude or supervision produces an appropriate

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\* Former Judge, High Court of Delhi

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response from the others. If the Probation Officer does his job with an appropriate attitude, the response of the child in his care and that of his parents and other family members will also be appropriate. An attitude of missionary is the most important attribute of a Probation Officer. True, the Probation Officer may be an officer of the court, a government servant, and a salaried employee. Yet he has to assume the role of a mentor. He needs to have the ability of being taken or accepted as a mentor. The child in his care has to see in him a friend, philosopher and guide.

6. In the Preamble to the Juvenile Justice (Care and Protection of Children) Act, 2015, the Legislature describes the Act as one “to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection, by catering to their basic needs through proper care, protection, development, treatment, social reintegration, by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their rehabilitation through processes provided and institutions and bodies established hereunder and for matters connected therewith or incidental thereto”.

7. One can immediately see that the children in conflict with law as well as children in need of care and protection are being treated for the same end. The Act attempts to provide proper care, protection and treatment of the children of both groups by catering to their developmental needs. As such the welfare or the best interest of the child is meant also to include the developmental needs of the child, be the one in need of care and protection or the one in conflict with law.

8. The question that arises is how the legislature designs a framework to provide for the welfare of children keeping in view the considerations mentioned above. The focus for the present discussion is the child in conflict with law.

9. There are some institutional devices created by the Act. In the first place, the Police itself is required to have a “Special Juvenile Police Unit” or a “Designated Child Welfare Police Officer” who has to take the charge of a child in conflict with law immediately on his apprehension. Thus every Police Station has to have within it, a Designated Police Officer and every district and city has to have a Special Juvenile Police Unit.

10. Secondly, special arrangements/homes or place of safety etc. are provided for in the Act as an apprehended child in conflict with law cannot be kept in a police lockup or in a regular jail.

11. Third institutional arrangement is the presence of a Probation Officer with multifarious duties who, as we will proceed to see, has to be associated with the case of a child in conflict with law immediately after his apprehension and continue to be associated not only till the disposal of the case by the Juvenile Justice Board (Board, for short) but thereafter as well.

12. The next institutional arrangement is providing for a Juvenile Justice Board where a child in conflict with law is produced and dealt with. The regular criminal courts of the country where the adult accused are tried have no place in the area of justice to the child except Children’s Courts. No disqualification is attached to the conviction and the record of the inquiry into the alleged offence committed by a child is required to be weeded out after the period specified in the Act except as specified in the Act.

13. Finally, the name of the child has to remain confidential and protected against publication which enables the child to reintegrate safely and start life afresh without the taboo of conviction by a court.

14. The Probation Officer is an important link through all the stages which a child in conflict with law has to pass. Let us look at the law and find out the multifarious duties provided for the probation officers.

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**Q1. In how many places in the Act does the word Probation Officer appear?**

**(Participants shall answer the question. The answer shall be written on a Flipchart. Flipchart shall be displayed.)**

1. After the definition in Section 2 of the Act, the first mention of Probation Officer is in Section 12 which is a provision dealing with bail of a child. When the child is produced before the Board, the Board may as a part of the condition of bail place him/her under the supervision of a Probation Officer. For this purpose, the Probation Officer has to be available to the Board at the time of first production of the child before the Board. However, chronologically, the role of a Probation Officer starts as soon as the child is apprehended as is provided in Section 13(1) of the Act. Section 13(1) says that the officer in charge of a police station or the Special Juvenile Police Unit, immediately on apprehension, has to inform the parent or guardian of the child AND the Probation Officer. The role of the probation officer starts as soon as the apprehension takes place. The Probation Officer is required to carry out the first important task of preparing a social investigation report containing information regarding the antecedents and family background of the child and other material circumstances likely to be of assistance to the Board for making the inquiry. Section 13(2) also provides that the Probation Officer or the Child Welfare Officer shall be informed by the Board when the child is released on bail. Child so released may be placed under the supervision of a Probation Officer as prescribed in Section 12(1) of the Act.

2. When the inquiry is over and the child is found to have committed an offence, Section 18 requires the Juvenile Justice Board to pass an order of disposition. The Board has to take into account the Social Investigation Report of the child in question from a Probation Officer when such an order is made. Preparing a Social Investigation Report is one major task of the Probation Officer. The rules under the Act of 2015 have now been notified though they were yet to be framed when the Module was being prepared. The rules framed under the old Act of 2000 gave us enough guidelines as to what are the basic features of a social investigation report. The Juvenile Justice (Care and Protection of Children) Model Rules, 2016 (hereinafter referred to as the Model Rules of 2016) contain a more detailed proforma of the Social Investigation Report though the parts of the Social Investigation Report remain essentially remain the same. The report has three parts; the first part requires the Probation Officer to give the data or information regarding the close relatives in the family, delinquency records of the family, social and economic status, ethical code of the family, attitude towards religion, relationship amongst the family members, relationship with the parents, living conditions etc. Thereafter the report requires the Probation Officer to provide the child's history regarding his mental condition, physical condition, habits, interests, personality traits, neighborhood, neighbors' report and school, employment, if any, friends, child being subjected to any form of abuse, circumstances of apprehension of the child, mental condition of the child. Most important part of the report is the third part; i.e. the result of inquiry where the Probation Officer is required to inform the Board about the emotional factors, physical condition, intelligence, social and economic factors, suggestive causes of the problems, analysis of the case including reasons/ contributing factors for the offence, opinion of experts consulted and recommendation regarding rehabilitation by Probation Officer/ Child Welfare Officer.

3. For collecting all the information required to be given in the Social Investigation Report, the Probation Officer is required to visit the home and locality and school of the child several times. Plus, he needs to find out other facts like health condition etc. which may require visiting the doctor treating the family. Thus he needs to have a daily diary and field book just as an investigating police officer even though the aim of the investigation is social and not criminal.

4. No child is born with a criminal mind. Goodness is inherent in man. Various circumstances lead a person towards crime; most of the accused in court are one time offenders without any past criminal

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background. Hence the courts do believe that a convict can be reformed. The same is more true for a child who has been found to have broken the law and have committed some such act which is an offence in the eyes of law.

5. Various factors that can be listed as causes of child becoming involved in an offence are faulty upbringing, economic factors, family compulsions, influence of peers and drugs etc. Economic factors may be predominant but not necessarily the factor or the only factor in all cases. This is a subject of another discussion and the Probation Officer needs special training for identifying the causes of the child becoming involved in an offence. The Probation Officer cannot end his report by giving generalized or vague answers. He has to give a definitive answer on the cause of the child becoming involved in the offence. He needs to inform and train himself on various causes of the children becoming involved in offences and on how to identify the cause in each case. He can consult experts like psychologist, physicians, etc. and may report the opinion of such experts.

6. The second most important aspect of the report is the “recommendation regarding rehabilitation by the Probation Officer”. This can be given only by analyzing all the factors involving the child and by adding to it the Probation Officer’s own wisdom, experience and imagination.

7. At the end of the enquiry, if the child is found to have committed an offence, the Board has to pass an order under section 18. Under this section, the child may be released on a bond of good behavior and placed under the care of a parent, guardian or fit person or a fit facility. The child may be sent to a special home or place of safety for reformatory services including education, skill development, counselling, behavior modification therapy and psychiatric support during the stay in that home. Section 19 (2) directs the Children’s Court, where the enquiry is made in respect of a child above the age of 16 as prescribed under section 15, to mandatorily include in the final order, an individual care plan for rehabilitation of the child. The preparation of this plan and follow up thereof is the duty of the Probation Officer. But such care plan can also be ordered by the Board in respect of children in conflict with law before it. Such a care plan may be prepared even before passing a final order.

8. If the child in conflict with law is above 16, and the offence alleged is heinous, the Board is required by Section 15 of the Act to conduct an assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence and may transfer the trial to a Children’s Court. The Social Investigation Report can be an important input in such assessment to be done by the Board.

#### **The word probation officer is mentioned 17 times in the JJ Act 2015**

1. **Section 2(48)** - Definition
2. **Section 8(e)** - Power of the Juvenile Justice Board to give directions to the PO to produce a SIR
3. **Section 8(h)** - Follow up of the Individual Care Plan by the PO
4. **Section 12 (1)** - Bail on the supervision of the PO
5. **Section 13(1)** - PO to be informed of an apprehension for preparing a SIR
6. **Section 13 (2)** - PO to be informed on release of a child on bail
7. **Section 14 (5)** - Satisfaction of the Juvenile Justice Board about the conduct of the PO
8. **Section 19 (2)** - Follow up of Individual Care Plan by the PO

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9. **Section 19 (4)** - PO's report regarding follow up in place of safety
  10. **Section 20 (1)** - Follow up by the PO after the child attains the age of 21
  11. **Section 30 (iii)** - Direction by Child Welfare Committee to PO for SIR
  12. **Section 31(1)** - PO can present a child before the CWC
  13. **Section 97 (1)** - Release from Children's Home or Special Home on report of a PO

**Q2. What is the purpose of preparing an individual care plan and how does one prepare such a report?**

**(Participants shall answer the question. The answer shall be written on a Flipchart. Flipchart shall be displayed.)**

1. One major duty of the Probation Officer is to develop an individual care plan for every child in conflict with law. Individual care plan is defined in Rule 2(ix) of the Model Rules of 2016 as a comprehensive development plan prepared in consultation with the child, in order to restore the child's self-esteem, dignity and self-worth and nurture him into a responsible citizen. The plan has to address the following needs of the child:

- i. Health and nutrition needs, including any special needs
- ii. Emotional and psychological needs
- iii. Educational and training needs
- iv. Leisure, creativity and play
- v. Protection from all kinds of abuse, neglect and maltreatment
- vi. Social mainstreaming
- vii. Restoration and follow up
- viii. Life skill training.

2. Properly designed and executed, an individual care plan can change the life of the child. As can be seen, while preparing the individual care plan, the Probation Officer has to take into account the factors specific to the child. If the child needs immediate care for health, mental or physical, the Probation Officer should draw the attention of the Board to the same. During the stay of the child in the observation home, or special home or in a place of safety, the period of the stay can be very usefully spent in education, and training. Depending upon the present education level of the child and his/her capability for further learning, the Probation Officer can recommend general or vocational education for the child. At the same time, if the child needs psychological counselling to overcome any previous trauma, the same can be provided during his stay. Lost relationships can be revived and the child can feel a sense of security coming from such relationships. Relationships are also important for the child's restoration in the society and social mainstreaming. Leisure, creativity and play are essential for a growing child. Depending upon the nature and need of the child, the Probation Officer can design a plan. For example, if a child has an aptitude for singing or painting, the same can be mentioned in the report and can be taken care of by the homes. Even at the end of the tenure of the child's stay in the home, a follow up plan is necessary for it may be difficult for him or her to be released from the home and get on with the usual life unless he has some kind of support system. Every Probation Officer must understand that this individual care plan is going to be crucial for every child in conflict with law. The whole purpose of reform, development, rehabilitation and restoration depends on how the child spends

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his days in one of these homes. The Probation Officer is the designer of this individual care plan and must feel responsible and proud for having done it.

**Q3. Can we gather the duties of the Probation Officer from the above discussion?**

**(Participants shall answer the question. The answer shall be written on a Flipchart. Flipchart shall be displayed.)**

1. The duties of a probation officer are comprehensively recorded in Rule 64 of the Model Rules of 2016 (they are more detailed than Rule 87 of the Model Rules of 2007). They are as under:

(1) *On receipt of information from the Police or Child Welfare Police Officer under sub-section (1) (ii) of section 13 of the Act, without waiting for any formal order from the Board, the probation officer shall inquire into the circumstances of the child as may have bearing on the inquiry by the Board and submit a social investigation report in **Form 6** to the Board.*

(2) *The social investigation report should provide for risk assessment, including aggravating and mitigating factors highlighting the circumstances which induced vulnerability such as traffickers or abusers being in the neighbourhood, adult gangs, drug users, accessibility to weapons and drugs, exposure to age inappropriate behaviours, information and material.*

(3) *The probation officer shall carry out the directions given by the Board and shall have the following duties, functions and responsibilities:*

- i. To conduct social investigation of the child in Form 6;*
- ii. To attend the proceedings of the Board and the Children's Court and to submit reports as and when required;*
- iii. To clarify the problems of the child and deal with their difficulties in institutional life;*
- iv. To participate in the orientation, monitoring, education, vocational and rehabilitation programmes;*
- v. To establish co-operation and understanding between the child and the Person-in-charge;*
- vi. To assist the child to develop contacts with family and also provide assistance to family members;*
- vii. To participate in the pre-release programme and help the child to establish contacts which could provide emotional and social support to the child after release;*
- viii. To establish linkages with Probation Officers in other Districts and States for obtaining social investigation report, supervision and follow-up.*
- ix. To establish linkages with voluntary workers and organizations to facilitate rehabilitation and social reintegration of children and to ensure the necessary follow-up;*
- x. Regular post release follow-up of the child extending help and guidance, enabling and facilitating their return to social mainstreaming;*
- xi. To prepare the individual care plan and post release plan for the child;*
- xii. To supervise children placed on probation as per the individual care plan;*

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- xiii. *To make regular visits to the residence of the child under his supervision and places of employment or school attended by such child and submit periodic reports as per Form 10;*
  - xiv. *To accompany children where ever possible, from the office of the Board to the observation home, special home, place of safety or fit facility as the case may be;*
  - xv. *To evaluate the progress of the children in place of safety periodically and prepare the report including psycho-social and forward the same to the Children's Court;*
  - xvi. *To discharge the functions of a monitoring authority where so appointed by the Children's Court;*
  - xvii. *To maintain a diary or register to record his day to day activities such as visits made by him, social investigation reports prepared by him, follow up done by him and supervision reports prepared by him;*
  - xviii. *To identify alternatives of community services and to establish linkages with voluntary sector for facilitating rehabilitation and social reintegration of children; and*
  - xix. *Any other task as may be assigned.*

2. The above duties show that the Probation Officer has to be in constant touch with the child in his care; whether during the enquiry or during the child's stay in the home. The Probation Officer has to monitor the progress of the child.

3. He is the link between the child and the Board. It is he who supplies essential information regarding the child to the Board. He can be proactive if he can establish linkages with voluntary workers and organizations mentioned in (ix) above. This will make it easier for the child to reintegrate in the society at the end of his stay in the home.

**Q4 Can we now reflect which of these duties we perform and which we neglect?**

**(Participants shall answer the question. The answer shall be written on a Flipchart. Flipchart shall be displayed.)**

**Q5 What can we do with the present resources and what resources do we need to carry out the duties that we have been neglecting?**

**(Participants shall answer the question. The answer shall be written on a Flipchart. Flipchart shall be displayed.)**

The Probation Officer has to supervise the child placed in his care- whether during his stay in the home or during the enquiry when he is on bail or when placed under him after being found to be involved in an offence. The parents supervise the child on minute to minute basis. But the Probation Officer is not able to carry out supervision of this type. Nevertheless the supervision of the Probation Officer is important to carry out the objectives of the Act. Therefore, the supervision has to be qualitatively better. He can structure the supervision. He has to devise methods of assessing the progress of his ward as also of correcting his ward if he/she is going astray.

**Q.6 What is the purpose of such supervision and how does the probation officer achieve this purpose?**

**(Participants shall answer the question. The answer shall be written on a Flipchart. Flipchart shall be displayed.)**

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**Q.7 In what different ways do you think a wayward child can be reformed?**

**(Participants shall answer the question. The answer shall be written on a Flipchart. Flipchart shall be displayed.)**

**CONCLUSION:**

The very soul of the Probation Officer's work is faith and confidence that a child can be reformed. The success of a Probation Officer lies in recognizing the hidden talent of the child in his care, and find means of promoting such talent. At the same time, the child has to overcome criminal tendencies, if any, as well as the impact of past abuses and other kinds of sufferings. The credit for transforming the child into a useful and valuable citizen entirely belongs to the Probation Officer. It is the Probation Officer who puts life into the Act.

**Role of Panel Lawyers:**

1. The child has all the fundamental rights available to any citizen of the country. To be defended before any court through legal representation is one such right. Rule 14 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 envisages availability of legal representation for every child. Various provisions in the Model Rules of 2016 also speak of extending free legal services to a child. While a child has a fundamental right to have legal representation, the Board must not convert its sittings into usual criminal courts. Rule 10 of the Model Rules of 2016 (Rule 14 of the Model Rules of 2007) specifically provides that the proceedings before the Board shall be conducted in a non-adversarial environment. The lawyer in the legal services panel has great responsibility as his client is a vulnerable human being caught in the legal cobweb on account of some misadventure or activity forbidden by the law. Although a finding of involvement in the offence by the Board does not carry a taboo, the life of the child before the Board will certainly be much better if he is found at the end of the enquiry to be innocent.
2. Extracting facts from the child may not be very simple, for the child may be shy or introvert or may be unable to appreciate the importance of communicating with his lawyer. Further the child may be unable to see facts in their right perspective, the Panel Lawyer has to extract all the facts and put them in their right sequence and conduct the case to ensure that no injustice is caused to his client. He has to develop the skill of communicating with the child and the family of the child and finding relevant facts. Hence the lawyer has to walk an extra mile in the case of a child client.
3. The underlying principle in the working of the Probation Officer, the Board and the Panel Lawyer is the same- the best interest of the child. Hence the atmosphere in the proceedings need not be adversarial. Each stake holder may work in tandem while fulfilling each one's role.
4. The Panel Lawyer also has a role in representing children in need of care and protection. The Child Welfare Committee can seek the assistance of a lawyer, a social worker or a mental health expert in dealing with cases of abused children. Such lawyers may also interface with Public Prosecutor or Assistant Public Prosecutor to facilitate legal services to the abused children when the case relating to such children is taken up in regular court.

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**MODULE FOR TRAINING OF LEGAL SERVICES LAWYERS AND PROBATION OFFICERS ATTACHED TO THE JUVENILE JUSTICE BOARDS ON CHILD RIGHTS,**  
**LEARNING TO DEAL WITH CHILD ABUSE AND VULNERABILITY**  
**UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

– *Bharti Ali\**

**SESSION PLAN**

**Objectives**

- 1 Self-introspection that can help understand children and their vulnerabilities better
- 2 To provide the Probation Officers an understanding of socio-cultural context of children they deal with, their vulnerability to various forms of violence and abuse and need for protection
- 3 To give them a clear perspective and understanding on child abuse and its various forms and impact, how to identify abuse and deal with it.

**Expected learning outcomes**

The Probation Officers and Legal Services Lawyers attached to Juvenile Justice Boards and Children's Courts will appreciate the importance of the rights of children they deal with.

- 1 Participants will be able to understand children and their situations better
- 2 They will be familiar with the forms, symptoms and impact of child abuse and learn to identify children with such problems
- 3 They will be in a better position to deal with children who have been victims of abuse, exploitation and violence and assist the concerned authorities in this regard

**Programme**

1. Interactive lecture on overview of Juvenile Justice (Care and Protection of Children) Act 2015 with power point 20 minutes
2. Recapitulation and concluding remarks by one of the participants 10 minutes
3. Introduction to the Subject of Child Abuse and Vulnerability 5 minutes
4. Understanding self-attitude and perception towards children in the juvenile justice system 10 minutes

An introductory exercise may be carried out by the Facilitator/Resource Person to help the participants introspect on stereotyping, attitudes and perceptions about children in the juvenile justice system and how they can impact the work of Probation Officers.

5. Understanding Child abuse and learning to deal with it – Part 1 15 minutes

A lecture by the resource person may help the participants focus on the following issues-

1. Children in the Juvenile Justice System and the Role of Probation Officers

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\* Co-Director, HAQ: Centre for Child Rights.

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2. Why is it important for Probation Officers do understand child abuse and learn to deal with it?
  3. Understanding child abuse
  6. Group exercise using a case study 20 minutes

A group exercise based on a case study may be used for discussion to further enhance participants' knowledge and understanding on child abuse and how to deal with a case as a Probation Officer.

This will also help break the monotony and stimulate the minds of the participants when they get into putting the knowledge acquired into practice.
  7. Understanding Child abuse and learning to deal with it – Part 2 15 minutes

A lecture by the resource person interspersed by brainstorming may help the participants focus on the following issues-

    1. Identifying signs of abuse in order to help children who are or have been the victims
    2. Some impacts of negative or unhealthy childhood experiences on young people
    3. Dealing with child abuse and its manifestation such as child marriage and child labour – what can Probation Officers do 20minutes

A group exercise based on a case study may be used for discussion to further enhance participants' knowledge and understanding on child abuse and how to deal with a case as a Probation Officer.

This will also help break the monotony and stimulate the minds of the participants when they get into putting the knowledge acquired into practice.
  9. Summing Up and Feedback 5 minutes

While summing up and concluding remarks by the facilitator/resource person are necessary to highlight the take away from the training, if time permits, a quick feedback may also be taken from the on the content and methodology.

### **Tools Required**

- 1 Flip Chart
- 2 White board with white board pens
- 3 Facility for making a power point presentation

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## SHORT NOTE ON CHILD RIGHTS

— Justice Manju Goel (Retd.)\*  
— Bharti Ali\*

*“If we are ever to have real peace in the world we shall have to begin with children-  
Mahatma Gandhi”.*

### Introduction

Children are citizens of the country as much as the adults are. They are entitled to all the rights given to a citizen in the Constitution of the country. Why then do we talk of rights especially of the children?

There are two reasons for dealing with the rights of children distinctly from those of the adults. The first is that they are weak and vulnerable and hence need special care. The second is that they have to take up the responsibility to rule the country in the near future and the society has to take the responsibility to convert the children into responsible citizens.

Rights are inherent in man. But rights become legally enforceable against the State when the rights are codified or otherwise recognised by the judicial system in the country.

Someone’s right is another one’s responsibility. It is our responsibility to secure the rights of the children. Since the children cannot speak up to demand their rights, the responsibility of the society is still greater while dealing with their rights.

While dealing with children, our attitude cannot be one of charity or benevolence. Our attitude has to be of an honest and diligent service provider or SEVAK. The children have some rights provided by the Constitution and the laws and we/Probation Officers/all functionaries from the ‘State’ have to bring home those rights. With that end in view, we have to study the rights of children.

The State derives inspiration and authority for all the actions from the Constitution of India. There are provisions in the Constitution providing for directions and guidelines to make laws and provisions for the welfare of children. Hence the Government is obliged to care for the welfare of children and bring suitable legislations for them. In addition India being signatory to the Convention on the Rights of the Child 1989 and the Protection of Children and Co-operation in Respect of Inter-country Adoption (1993) is obliged to conform to the terms of the two conventions. We will limit the present study to the sources mentioned in the preamble of the Juvenile Justice (Care and Protection of Children) Act 2015. The sources can be listed as under:

- 1) The Constitution of India: Article 15(3), Article 39, Article 45 and Article 47
- 2) Convention on the Rights of the Child 1989
- 3) United Nations Standard Minimum Rules for Administration of Juvenile Justice 1985
- 4) United Nations Rules for the Protection of Juveniles Deprived of their Liberty 1990
- 5) Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption 1993.

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\* Former Judge, High Court of Delhi

\* Co-Founder and Co-Director of HAQ: Centre for Child Rights

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Rights under Article 15 of the Constitution of India give every citizen protection against discrimination in the name of religion, race, caste, sex or place of birth. Yet special provisions for some people have been permitted by Article 15(3). Article 15(3) is an enabling provision for the State i.e. the Government and the Legislature to make special provisions for women and children. Being empowered by this provision in the Constitution, the Government has framed several laws to protect children from various kinds of exploitation.

Article 45 directs the State to endeavour to provide free and compulsory education for all children upto the age of fourteen years.

Article 47 requires the State to raise the level of nutrition and standard of living of the citizens and improve public health including prohibition on consumption of intoxicating drinks and drugs injurious to health.

### **Rights under the Convention on the Rights of the Child 1989**

There are 41 Articles in the Convention acknowledging extensive rights to the children. The important ones are as follows:

**Child not to be separated from the family-** The Convention recognizes the right of the child to remain with the parents or the family. Hence child cannot be separated from the family except when competent authority determines that such separation is necessary for the best interests of the child. The separated child has to be given right to maintain contact with his/her parents on regular basis. In case the separation is caused by factors like detention of a parent, the child has a right to information about the whereabouts of the detained parent. The State parties shall deal with applications for entry or exit from a State for the purpose of reunification of the family. In case a child is separated from the family, the State shall make provision for special protection and care of the child including foster care or adoption. Adoptions have to be regulated by the State. Inter country adoption has to be considered as a means of child's care.

**Child has a right against violence-** The child has a right of protection against mental or physical violence, injury, abuse, neglect, maltreatment and sexual abuse while in the care of the parents, legal guardian or any person who has the care of the child.

**The child is entitled to protection against economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to child's health or physical, mental, spiritual, moral or social development.**

**Child's right to education-** Right to education and development is another important right recognized by the Convention. The education has to be directed to the development of a child's personality and mental and physical abilities to their fullest potential. The development should be aimed at preparation of the child for responsible life in a free society in the spirit of understanding peace, tolerance, equality of sexes and friendship among all people.

**Child's civil and political rights-** The right of a child to be heard in matters in which he/she is capable of forming his or her opinion is recognized. The child is also given the freedom of association and peaceful assembly as also the right of access to information and material from a diversity of national and international sources.

**The rights of the child when in conflict with law-** The Convention makes special reference to children who are victims of a crime as well as those who are alleged to have committed some crime.

The Convention stresses that measures be taken to promote physical and psychological recovery and social reintegration of the children who are victims of neglect, exploitation, abuse, torture or any form of cruelty.

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If a child is accused of having infringed any penal law, he/she has to be treated in a manner consistent with promotion of the child's sense of dignity and worth and takes into account the child's age and desirability of promoting the child's reintegration. The child accused of having infringed any law should be provided legal assistance to defend, fair trial and review of any order holding infringement of law by him/her.

The Convention provides that the appropriate measures for dealing with such children should be available without resorting to judicial proceedings. Further it says that a variety of dispositions such as care, guidance and supervision orders, counselling, probation, foster care, education and vocational training programmes, etc. should be made available to ensure that the children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

### ***Rights of children under UN Rules-***

- 1) UN Standard Minimum Rules for Administration of Juvenile Justice 1985 and
- 2) UN Rules for Protection of Juveniles Deprived of their Liberty 1990.

The UN Standard Minimum Rules for Administration of Juvenile Justice 1985 lay down standard minimum rules to be applied to juvenile offenders. They inter alia provide:

- i. The Juvenile Justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders be in proportion to the circumstances of the offender and the offence.
- ii. Juvenile offender shall have the right to presence of parents and of legal counsel during trial.
- iii. The release of an apprehended juvenile shall be considered promptly.
- iv. As far as possible, the juvenile shall be dealt with without resorting to formal trial and that police to deal with juvenile are specially trained.
- v. Detention pending trial shall be resorted to as last resort, only for short durations.
- vi. Detention be replaced by alternative methods like supervision or detention in a place different from a prison. Various disposition orders have been envisaged in the "Minimum Rules". The concept of Social Inquiry Report also finds mention in this document.

The UN adopted the Rules for Protection of Juveniles Deprived of Their Liberty on 14.12.1990. The Rules are designed to serve as convenient standards of reference and to provide encouragement and guidance to professionals involved in management of the juvenile system. Most of the concepts in the "Rules" find mention in the earlier Minimum Rules of 1985. Additionally, the document of 1990 prescribes expunction of the records of a delinquent juvenile on his release. Further there is provision for psychological and social report identifying any factor relevant to the specific type and level of care and programme required by the juvenile. These rules also provide for education and vocational training, recreation, medical care, religious facilities, etc. during detention. The rules also show concern for rehabilitation and reintegration of a detained child.

**The Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption (1993)**-The Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption (1993) was adopted keeping in view the needs of those children who cannot be reunited with their family of origin and for whom suitable families willing to adopt are not found in their own country. The objective of the Convention is to provide safeguards to ensure that inter-country adoptions take place in the best interests of the child.

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**Child rights recognized in India-** Although we have traced these sources of rights of children and enumerated some of the rights in the preceding section, the legislation in India for protection and development of children existed from earlier times. The Indian Penal Code itself has several child friendly provisions. Several of its provisions deal with offences in which children are victims. It also deals with the age of criminality of a child. Various other legislations deal with protection of children against exploitation. On the civil side certain laws have recognized the rights of children in matters of inheritance, property, marriage and maintenance. Some of them are listed below:

### **Special Laws**

- 1890 Guardians and Wards Act (Amended in 2010)
- 1933 Children (Pledging of Labour) Act
- 1956 Women's and Children's Institutions (Licensing) Act
- 1956 Young Persons (Harmful Publications) Act
- 1960 Orphanages and Other Charitable Homes (Supervision and Control) Act
- 1986 Child Labour (Prohibition and Regulation) Act
- 1992 Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act (amended in 2003)
- 1994 Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act (amended in 2003 to become Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act
- 2000 Juvenile Justice (Care and Protection of Children) Act, 2015 is an Act to replace the entire Act of 2000
- 2005 Commission for Protection of Child Rights Act, as amended in 2006
- 2006 Prohibition of Child Marriages Act, 2006 (A law replacing the Child Marriage Restraint Act of 1929)
- 2009 Right of Children to Free and Compulsory Education Act, 2009
- 2012 Protection of Children from Sexual Offences Act, 2012

### **Special Laws Continued**

- 1875 Indian Majority Act
- 1925 Indian Succession Act
- 1937 Muslim Personal Law (Shariat) Application Act
- 1948 Factories Act (Amended in 1949, 1950 and 1954)
- 1951 Plantations Labour Act (Amended in 1953, 1960, 1961, 1981, 1986 and 2010)
- 1952 Mines Act
- 1954 Special Marriage Act
- 1955 Hindu Marriage Act
- 1956 Hindu Adoptions and Maintenance Act (Amended in 2010)
- 1956 Hindu Succession Act (Amended in 2005)

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- 1956 Immoral Traffic (Prevention) Act (Amended in 1978 and 1986)
  - 1958 Probation of Offenders Act
  - 1958 Merchant Shipping Act
  - 1961 Maternity Benefits Act 1961 (amended in 2008)
  - 1961 Apprentices Act
  - 1961 Motor Transport Workers Act
  - 1966 Beedi and Cigar Workers (Conditions of Employment) Act
  - 1969 Registration of Births and Deaths Act
  - 1970 Contract Labour (Regulation and Abolition) Act
  - 1971 Medical Termination of Pregnancy Act, 1971(amended in 2002 through the Medical Termination of Pregnancy (Amendment) Act, 2002)
  - 1976 Bonded Labour System (Abolition) Act
  - 1978 Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act (came into force w.e.f 25 June 1987)
  - 1986 Indecent Representation of Women (Prohibition) Act
  - 1987 Mental Health Act
  - 1987 Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act
  - 1989 Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act
  - 1992 Rehabilitation Council of India Act
  - 1994 Transplantation of Human Organ Act
  - 1995 Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act
  - 1999 National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act
  - 2000 Information Technology Act, (amended in 2008 to include child pornography)
  - 2005 Protection of Women from Domestic Violence Act
  - 2013 National Food Security Act

### **Criminal Laws**

*Provisions directly relating to children Indian Penal Code, 1860*

- Section 82 Age of criminal responsibility is fixed at 7 years as nothing done by a child under 7 years of age is an offence
- Section 83 *Doli incapax* – Need to establish sufficient maturity of a child between the ages of 7 to 12 years with respect to a particular act of crime as nothing is an offence which is done by such a child, who has not attained sufficient maturity of understanding to judge the nature and consequences of his action
- Section 185 Illegal purchase or bid for property by a public servant on account of a person who does not have the legal capacity to do so by himself/herself

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- Section 228A Disclosure of identity of a minor victim of rape is permitted only on the written authorisation of the next of kin of the victim
- Section 293 Selling, hiring, distributing, exhibiting or circulating obscene objects to persons below the age of 20 years
- Section 299 Offence of culpable homicide is made out when the death of a living child is Explanation 3 caused and any part of that child has been brought forth, even though the child may not have breathed or been completely born
- Section 305 Abetment of suicide of child (person under 18 years) or insane person
- 310 and 311 Habitual association with others for child-stealing by means of or accompanied with murder
- 312 and 313 Voluntarily causing a pregnant woman to miscarry the unborn baby or causing miscarriage without a woman's consent
- Section 315 Act done with intent to prevent child being born alive or to cause it to die after birth
- Section 316 Causing death of quick unborn child
- Section 317 Exposure and abandonment of child under 12 years, by parent or person having charge of its care
- Section 318 Concealing the birth of a child by secretly disposing her/his body
- Sections 361 Kidnapping (Section 361) or abduction (Section 362) of a male minor
- 362 and 363 Under 16 years of age or a female minor under 18 years of age out of the lawful guardianship of such minor, without the consent of the guardian and punishment for it (Section 363)
- Section 363A Kidnapping or maiming a minor (under 16 years in case of males and under 18 years in case of females) for purposes of begging
- Section 366 A Procuration of minor girls (under 18 years) for illicit intercourse
- Section 366 B Importation of girls (under 21 years) to force them into illicit intercourse
- Section 369 Kidnapping/abducting a child under ten years with intent to steal from its person
- Section 370 Trafficking a person, including minors
- Section 370A Exploitation of a minor trafficked person
- Section 372 Selling a minor (person under 18 years) for the purpose of prostitution
- Section 373 Buying a minor (person under 18 years) for the purpose of prostitution
- Section 375 (Sixthly) Rape of a girl under 18 years of age
- Section 375 (Seventhly) Sexual acts of a husband with his wife, where the wife is below the age of 15 years

*Exception 2 to Proviso*

Section 376(2) Higher punishment for rape in certain cases-

- (i) custodial rape;

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- (ii) rape by persons in position of authority/trust/control (including police, public servants, member of armed forces, staff or management of children's institutions, relative/guardian/teacher, staff of a hospital); (iii) rape on women in vulnerable situations (including women under 16 years of age, physically or mentally challenged women, pregnant women, in a situation of communal or sectarian violence); and (iv) rape with additional harm (including grievous injury or danger to life, repeated rape)

Section 376C Sexual intercourse by person in authority e.g. manager or in-charge of a children's institution

*Code of Criminal Procedure (Cr.P.C.), 1973*

Section 125 Maintenance for a dependent wife and children

Section 98 Power to compel immediate restoration of a woman or a female under 18 years of age abducted for unlawful purpose or detained unlawfully

Section 160 Police Officer to reach certain persons at their residence for purposes of investigation instead of requiring their attendance before the police officer or in the police station. These include a male witness under the age of 15 years, or a woman, or a person above the age of 65 years, or a mentally/physically challenged person.

Section 167 In case of an accused woman under eighteen years of age, the Magistrate can order detention only in the custody of a remand home or recognized social institution.

Section 173(1A) Police investigation in case of rape of a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station.

Section 198(6) Court not to take cognizance of an offence of rape of a woman below the age of 18 years by her own husband after a lapse of one year from the date of commission of such offence

Section 273 (Proviso) Court to ensure that a rape victim below the age of 18 years is not confronted by the accused at the time of taking her evidence and the accused's right to cross-examination is also maintained

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## ACTIVITIES

### **Activity 1: Introductory Exercise on Understanding Self-attitude and perceptions towards children in the Juvenile Justice System**

Step 1– Be prepared with a list of 20 adjectives to be displayed in a tabular form on a flip chart or on the overhead projector/screen in the following manner:

<b>Participants' Description \of Self</b>	<b>Adjectives</b>	<b>Description of children in the Juvenile Justice System</b>
	honest	
	poor	
	selfish	
	time keeper	
	helpful	
	cunning	
	dependent	
	illiterate	
	ignorant	
	disciplined	
	criminal	
	sensitive	
	experienced	
	arrogant	
	committed	
	hard working	
	unreliable	
	visionary	
	thief	
	bad mannered	

Step 2 – The 20 adjectives must be visible to all. You may use two or three flip chart sheets to prepare the table so that the adjectives are spread out and written in large and bold font to make them visible and readable.

Step 3 – Now ask the participants which of these words they would like to use to describe themselves.

Step 4 – The facilitator should keep ticking against the adjectives that the participants choose for themselves in the first column and give that column a heading – “Participants’ description of self”.

Step 5 – Now ask the participants which of these words can be used to describe a street child or a child in the juvenile justice system

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Step 6 - The facilitator should keep ticking against the adjectives that the participants choose to use for describing children in the juvenile justice system in the last and third column and give that column a heading – “Description of children in the Juvenile Justice System”.

Step 7 – It is important to analyze the filled table. The facilitator will find that there are some words that could be used for children in the juvenile justice system but the participant chose not to do so. Similarly, there would be some words which could apply to both the participants and the children in the juvenile justice system. The facilitator should make a note of this and initiate a small discussion on why and on what basis did the participants chose certain words for children or for themselves and whether they think all the words they chose for children would apply to all the children they deal with.

**Activity 2: Case Study for Group Exercise at the end of the first lecture on understanding child abuse and learning to deal with it**

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## Case Study 1

Raju, a child from a slum failed to understand why he could not enter a nearby shopping mall even when he was in the best of his attires. Every time he would pass the mall, he would try to sneak in and would either hear abuses from the guards or get threatened. One day the guards called the manager, who then beat up Raju for trying to argue with him. Raju could not take it anymore and gave a hard blow back to the manager and went on beating him till he suffered grave injuries. In rage, Raju also picked up stones lying around and started breaking the glass windows of the mall. For him, the world continues to be unfair, so why should he be fair to the world.

Raju is caught by the police and produced before the Juvenile Justice Board. The Probation Officer is asked to prepare Social Investigation Report within the next 15 days and submit it to the Board.

- Qs.1. Is it necessary for the Probation Officer dealing with this child to try and find out why Raju did what he did? Answer YES or NO and give reasons for the same.
- Qs.2. Do you think Raju was a victim of child abuse? Give reasons for your answers.
- Qs.3. Is it necessary for the Probation Officer to write about the circumstances of the offence and the social background and child's aspirations in his report?
- Qs.4. Would mentioning the circumstances of the offence, social background of the child and his aspirations amount to a justification for his action or would it help the Juvenile Justice Board in deciding on the nature of dispositional order?
- Qs.5. What possible course of action can be recommended by the Probation Officer in his report till the Board concludes its inquiry?

### **\* Activity 3: Case Study for Group Exercise at the end of the second lecture on understanding child abuse and learning to deal with it**

Two case studies are given below. The facilitator/resource person may use any one of these or both for group work.

If there is paucity of time, the case study could be shared in the plenary, displaying it on the overhead projector/screen and reading it out for the benefit of all. Questions based on the case study could then be asked one by one and responses could be noted down on a flip chart or typed on the computer connected to the LCD projector.

The facilitator/resource person will have to be prepared for making such last minute changes in the plan in accordance with the time in hand. This requires that every question relating to a case study be written out on separate sheets of a flip chart, or separate pages of a word file, or separate slides of a power point presentation, on which the responses to each question could be noted down.

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## Case Study2

Puneeta is a 13-year-old girl studying in a government school. She comes from a good middle class family with very high morals and spiritual thinking. One day she called the police and raised a false alarm of a bomb being placed in a particular shop in the nearby market. Puneeta was booked under Sections 182 and 505 of the IPC and information was sent to the Probation Officer about the case. The girl was produced before the Juvenile Justice Board the next day. After 15 days the Probation Officer prepares a Social Investigation Report and submits it in the Juvenile Justice Board stating that the child has attention seeking behaviour.

- Qs.1. Is there anything about Puneeta that raises a person's curiosity to know more about her? If yes, what is it and how should the Probation Officer interact with the child to know more?
- Qs.2. Why do you think Puneeta did this?
- Qs.3. Is the Probation Officer right in suggesting that the child has attention seeking behaviour?
- Qs.4. On what basis do you think the Probation Officer would have come to this conclusion?
- Qs.5. Does the role of the Probation Officer end with the comment that the child has attention seeking behaviour?
- Qs.6. Could attention seeking behaviour be a symptom of abuse suffered by the child?
- Qs.7. If yes, what form of abuse do you think the child must have faced - neglect, physical abuse, emotional or verbal abuse, sexual abuse?
- Qs.8. How would you come to know about any history of abuse or neglect?
- Qs.9. Do you think Puneeta knew she would be caught by the Police for such action? Do you think it is important to mention this in the Social Investigation Report?
- Qs.10. Do you think Puneeta needs help? What can a Probation Officer recommend for Puneeta?

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### Case Study 3

Danny, a runaway, an addict and a drug peddler, who was interviewed in an institution, expressed anger and frustration with the fact that the Juvenile Justice Board's first response was to quickly issue punitive consequences for his delinquent behaviour, while being very slow to act and protect him from the physical abuse that he was suffering at the hands of his parents and those who got him into drugs and the business of drug peddling.

The decision of the Board largely rested on the Social Investigation Report prepared by the Probation Officer.

- Qs.1. What do you think must have been written in the Probation Officer's Social Investigation Report that led to such a decision by the Board?
- Qs.2. Do you think the physical abuse inflicted on the child by his parents was more of a disciplinary measure to bring him on track instead of letting him go astray?
- Qs.3. Should physical abuse, or verbal abuse and demeaning the child in public or before relatives and friends, or comparing him with other children his age is the right way to deal with a child and ensure disciplined behaviour?
- Qs.4. Does abuse at home justify the child's running away from home and taking to drugs, including peddling?
- Qs.5. Is drug abuse a form of abuse or a symptom of abuse or an impact of abuse?
- Qs.6. Since drug peddling is an offence, should the child be let off simply because he has had a history of abuse? How can the child be held accountable in such a case?
- Qs.7. What should be the first step towards making the child feel accountable and what is the role of the Probation Officer in such a situation?
- Qs.8. Would it be appropriate to recommend that the child be sent back home every time he runs away and is found by the authorities or should he undergo any treatment programme?
- Qs.9. Is there a role for his parents in preparing an individual care plan for this child? Explain.

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**SHORT NOTE ON  
DIFFERENT ACTIVITIES AND LECTURE TOPICS  
ON LEARNING TO DEAL WITH CHILD ABUSE AND  
VULNERABILITY  
UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)  
ACT 2015**

—*Bharti Ali\**

- I. Short notes on Activity 1: The Introductory Exercise on “Understanding self-attitude and perceptions towards children in the Juvenile Justice System”

The objective of this session is to help the participants understand the inherent biases we carry against children in the juvenile justice system and do some self-introspection.

This is the first step in learning to deal with children with lost childhood, whose scars may not always be visible and is the most important step for those in the probation services.

This can be done through an activity engaging all participants.

***Tools required for the activity:***

Flip Chart / LCD Projector, computer and overhead screen

***Summing up the discussion:***

The discussion must be summed up to help the participants understand stereotyping and how it can impact their work. This may be done with the help of some illustrations or examples based on the analysis of the completed table.

*For example*, it may be found that the participants have chosen words like “committed”, “hard working”, “honest”, “disciplined”, or “sensitive” for themselves but not for children. It is important for the facilitator to help the participants realize and recognize that the children they deal with could also be committed, honest, disciplined and sensitive like them. It’s just that their commitment and honesty may be misplaced. The word “hard working” is a good word to be discussed. It is often not used by adults for children, especially not in the case of children in the juvenile justice system. But most children such as street children are very hard working, children rescued from labour are very hard working, and so are children in conflict with the law who often earn their own living and yet remain neglected by their family or abused in different ways.

The facilitator could also do this the other way round i.e. by asking the participants why did they choose certain words for children in the juvenile justice system but not for themselves. These could be words like “ignorant”, “cunning”, “selfish”, “bad mannered” etc. “Ignorant” is a good word for a discussion. Seldom do adults recognize their levels of ignorance while dealing with children. A discussion on the word “ignorant” can help the participants understand how difficult it is to admit one’s own weaknesses, and that ‘ignorance’ can be one such weakness, which if recognized, can go a long way in making an attempt to understand children, their social contexts, their history of abuse and the help they need to reintegrate into the society as socially useful and productive citizens.

To sum up, it is important to reiterate that –

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\* Co-Director, HAQ: Centre for Child Rights.

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- We often approach children in the juvenile justice system with a bias and pre-conceived notions about them, which may hamper any effort in building a rapport with children and in understanding their realities.
  - There can be no “one size fits all approach” when we work with living beings and it would be a mistake to judge all through the same lens.
  - Probation Officers can only help a child or succeed in their job if they leave all stereotypes aside and approach a child without any bias, as an individual with unique experiences of childhood, an individual with rights and whose rights must be protected.
  - Stereotyping, biases and pre-conceived notions about children in the juvenile justice system can close all doors to working out an effective rehabilitation plan for them.
- II. Short Notes that may be used by Facilitator/Resource Person for the first lecture on “Understanding Child Abuse and Learning to Deal with it – Part 1”

A suggestive content or reading is given below for use by Facilitators/Resource Persons taking a session on “Understanding child abuse and learning to deal with it”.

Facilitators may draw upon or add to the content and use the best of their knowledge and skills to keep the participants attentive, as the topic to be covered is vast and requires concentration.

Children in the juvenile justice system are those who have been failed by their family, school, work place or society at large to bring them in contact with the system. In fact, children in conflict with the law are first children who need care and protection and then those who need to be reformed through appropriate treatment and rehabilitation.

Many of them are children with lost childhood and may have experienced abuse, violence or exploitation at different points in their life.

It is often presumed that we, as adults understand children and their vulnerabilities the best and know how to deal with child abuse.

But little do we realize that we may not fully understand child abuse, the various forms it takes, symptoms and signs of different forms of abuse, the impact and manifestations of child abuse such as child marriage and child labour.

### **1. Children in the Juvenile Justice System and the Role of Probation Officers**

- The children that Probation Officers have to deal with may have a history of abuse and will hence require special understanding and care.
- The role of a Probation Officer in the juvenile justice system focuses largely on the principle of rehabilitation and reintegration of children.
- Unless the child’s experiences and reality are understood, no decision can be taken by any authority on how to ensure their care, protection, treatment, rehabilitation and reintegration.
- Even care plans cannot be developed for children without knowing their past and present, which includes not only their socio-economic background, but also their childhood experiences, their exposure to violence and abuse if any, their behavioural patterns, factors that led to their coming in conflict with the law or that brought them into a vulnerable/difficult situation, issues relating to drugs or substance abuse etc.

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- In every case of a child in need of care and protection (CNCP) and a child in conflict with the law (CICL), it is the social investigation report of the Probation Officer that helps the Juvenile Justice Boards and the Child Welfare Committees decide on the best course of action for these children.
  - Only when the social investigation report highlights the child's experience of well-being or otherwise and helps the competent authorities know the child's reality, can the children be best protected, cared for, treated and rehabilitated.
  - Probation Officers may also be asked to supervise a child placed in an institution, or restored to his/her family, or placed in non-institutional care.

This casts an additional responsibility on the Probation Officers to ensure that children are safe and protected wherever they are and not in any moral, physical or psychological danger arising from possibility of neglect, abuse or exploitation.

- Those representing children or entrusted with their supervision must ensure no child rights violations take place, and if they do, they must get reported to the appropriate authority.
- By recognizing and addressing the role of trauma in the lives of youth, the probation services, court and other systems can become more effective in meeting the needs of juvenile justice and the needs of the community.

## **2. Why is it important for Probation Officers to understand child abuse and learn to deal with it?**

- Children are more vulnerable than adults to the conditions under which they live.
- All children have the right to be protected from abuse and neglect wherever they are — at home, in school, on the streets, and at all times — in times of peace or conflict or calamity.
- Their right to protection is as intrinsic to their well-being, as is the right to survival, development and participation.
- As children are not a homogenous group, some need more attention than others due to their especially vulnerable situations or difficult circumstances.
- Many fall out of the social security and protective net to enter the child protection system either as victims of neglect, abuse, violence and exploitation, or as children in conflict with the law.
- Probation Officers are the back bone of the child protection system and have to deal with both victimized children and children in conflict with the law.
- They are the ones who help the authorities arrive at a decision that would be in the best interest of the child.

## **3. Understanding child abuse**

The World Health Organization defines 'Child abuse' as all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, of a child under eighteen years, resulting in actual or potential harm to the child's health, survival, development or dignity, in the context of a relationship of responsibility, trust or power.

*The different forms of child abuse –*



### A. Physical Abuse

Children are often subjected to physical abuse by parents, teachers or other grown-up people around them or their own peers who may be more powerful by virtue of their social, economic or physical status. These practices are culturally acceptable and seldom do we realise that they can be harmful for children having long lasting impacts on their behavior, their life and relationships with others.



Physical abuse may be inflicted to -

- Discipline them and teach them a lesson or to make them realise that what they have done is ‘wrong’
- Exert ‘control’ and authority over a child and to build the fear in them to behave in a certain way.

### A. Emotional & Verbal Abuse (Hidden bruises)

Emotional abuse occurs when:

Children are denied love, security, and company of friends and relatives.

- Parents, or a family member, or anyone who has the charge of the child do not care for them, or humiliate them, or compare them with others, or never praise them even when they deserve it.
- Older children bully the younger ones, or some fellow students or peers or siblings bully other children to assert their power. Bullying is repeated unwelcome behaviour in the form of intentional use of words or actions against a person to cause distress and risk to their safety, or comfort, or wellbeing, and is a result of a person or group of persons trying to exercise their power on others.
- Verbal abuse is part of emotional abuse and occurs in the form of calling children names, referring to them by their caste names, humiliating them in public, using words that hurt children’s feelings.

### B. Neglect

Neglect is also a form of child abuse which occurs when parents/care givers fail to do what they are supposed to do or choose not to do what they are supposed to do even though they have the means, resources and capacity to fulfil their obligations.

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### C. Sexual Abuse

Child Sexual Abuse is when someone behaves towards a child in a sexual manner. It is often coerced or induced as the abuser may use tricks, bribes, or threats.

Sexual acts involve both touching and non-touching behaviour. Our existing laws too have come to recognize that rape is not the only form of sexual abuse. Eve teasing, sexual harassment, showing dirty movies and pictures to a child or using children for pornography are also serious forms of sexual abuse even if they do not lead to any bodily harm or involve any bodily contact.

Both girls and boys can be victims of sexual abuse and all children are equally at risk – irrespective of caste, class, gender and culture.

### I. Short Notes on Activity 2: Group Exercise based on Case Study 1

#### Explanation for Facilitator's use

- i. Raju is certainly a victim of child abuse. Just because he wanted to visit a mall and he was poor, he should not have been treated the way he was by the guards and the manager. The abuse inflicted on him by these people would hurt anybody's dignity and self-worth.
- ii. Such abuse can have long lasting impact on a child's mind. A child can either become submissive or become vulnerable to further abuse by people more powerful than him or could turn violent and deviant as Raju did.
- iii. Raju should certainly understand that his reaction was important but not correct. He needs counselling to help him understand how to deal with such situations in a more mature and reasonable manner and that violence cannot be an answer to a wrong committed on someone. He must also understand that his action resulted in damage to public property and that nobody has a right to do so. It is important that he realizes that he will only further be rebuked and treated badly by society if he continues such behaviour. He must also be made to understand that once he becomes violent, it will become even more difficult to get out of it.
- iv. It is not easy to explain this to a child who feels that had he been a rich person he would never have faced such difficulty. Also, Raju may even be feeling that he would not have been caught by the police if he had been rich as he may have seen many rich and influential people get away with all kinds of wrong doings. Therefore, the Probation Officer must recommend Raju's case for counselling by a trained counsellor or may counsel the child himself/herself, if he/she is trained to do so.
- v. For most Probation Officers it is not easy to prepare a Social Investigation Report or a care plan since the child in question is not just a child needing care and protection, but also a child in conflict with the law, who must be held accountable for his actions. In dealing with this ethical dilemma, it is important for Probation Officers to remember that the juvenile justice law does not recommend only one type of treatment for children in conflict with the law. In fact, it provides several options other than detention, that a Board can use while holding a child guilty for an offence. And these options relate to community based rehabilitation.
- vi. Therefore, mentioning the circumstances of the offence, social background of the child and his aspirations would not amount to a justification for the child's actions or behaviour. It would rather provide reason to the Board to hold the child accountable in ways other than subjecting him to detention, unless detention is absolutely necessary and in the interest of the child.

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- vii. Counselling, releasing a child on probation of good conduct and placing a child in community service are some such options. However, all these options imply a very clear plan for follow-up, failing which the purpose and objectives of juvenile justice would stand defeated. The Probation Officers must therefore, build a post-release follow-up plan into all care plans they develop.
  - viii. Raju must be held responsible for his action and could possibly be recommended for community service along with an order to continue counselling. He must also be told why he is being asked to perform community services so that he learns that he has to make up for the damage caused to public property and also learn to deal with situations where his patience may be put to trial. This will also tell him that his behaviour will be watched so that he does not repeat it and is equipped to deal with tough situations as a decent and responsible citizen.
  - ix. Once a follow-up plan is put in place, it will help monitor whether the child is attending his counselling sessions or not. Often enough children do not continue with their counselling sessions because they do not have the means to travel all the way to the Juvenile Justice Board or the counsellor's place of work. Sometimes counselling is discontinued because the child has found a job and cannot take leave to attend the counselling sessions. There could many others reasons for a child discontinuing counselling. But all these situations can easily be addressed.
  - x. One possible solution could be that the counsellor reaches out to the child at his place of convenience. Another could be that the counsellor fixes the day for counselling in such a way that it suits the child. Where a child needs monetary support to attend counselling sessions, the same can be brought to the notice of the Board, for appropriate directions. And if all such options do not work out, the Probation Officer may recommend the Board to consider closure of the counselling on the basis of the counsellor's assessment report showing the progress made by the child and change in behaviour, or may recommend that the child be kept in a "fit facility" till such time that his counselling is necessary as per the concerned counsellor appointed in the case. This should however, be a measure of last resort as it would amount to institutionalisation, and the child may have by then realised his mistake if nothing else.

## **II. Short Notes that may be used by Facilitator/Resource Person for the second lecture on "Understanding Child Abuse and Learning to Deal with it – Part 2"**

**Understanding forms of abuse is one thing and learning to identify its symptoms and impacts, various manifestations of abuse and exploitation and how to deal with them is crucial.**

A suggestive content or reading is given below for use by Facilitators/Resource Persons taking a session on "Understanding child abuse and learning to deal with it".

Facilitators may draw upon or add to the content and use the best of their knowledge and skills to keep the participants attentive, as the topic to be covered is vast and requires concentration.

### **1. Identifying signs of abuse in order to help children who are or have been the victims**

Understanding of child abuse is not complete if people are not able to identify child abuse.

**We think it is the easiest to identify and recognize physical abuse, but that may not be the case, especially if there are no signs of bruises or injury.**

Illustration 1:

A Superintendent of an institution used to subject children to physical abuse by hitting them on such parts of the body that were not easily visible to others. Who would have ever

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realized that the boys in the observation home of which he was in-charge were being subjected to what has come to be known as “Talwa Parade” i.e. being hit under the feet. The children would look fine as no signs of abuse were visible on their body. None would even limp as they would be scared of being reprimanded and subjected to further abuse. How can any Probation Officer ever come to know of physical abuse in such circumstances?

***Some identifiable signs of Physical Abuse could be:***

- Bruises especially on the trunk, upper arm, shoulders, neck or finger-tip bruising
- Burns
- Fractures
- Aggression, Rage
- Scars
- Swelling and lack of normal use of limbs.
- Serious injury with lack of/ inconsistent explanation.

***The invisible symptoms of abuse are usually found in a child’s behavior and reactions. Some common but invisible signs of abuse that can be recognized in children are:***

- Low self esteem
- Lack of confidence
- Lack of attentiveness /concentration
- Withdrawal/isolation
- Feeling scared to say something
- Fearful of adults or unusual compliance to adults
- Poor social relationships
- Aggression and rage
- Over reacting or all of a sudden becoming angry and loud
- Unnatural complaint or unnecessarily rebellious behaviour
- Constant illness or dullness
- Sad look
- Bad performance at school
- Running away from home
- Absenteeism
- Poor trust
- Feeling out of place among friends and other people
- Fear of being left with a specific person or group of people
- Bullying other children by saying bad things to them
- Nightmares
- Bedwetting
- Untidy or dirty appearance
- Over-eating or anorexia
- Self-harm or self-mutilation

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- Lack of inclination to get injuries or illness treated
  - Substance or drug abuse
  - Suicidal tendency

**Some symptoms of sexual abuse:**

- Pain or itching in the private area
- Bruising or bleeding near genital area
- Sexually transmitted disease/infection
- Discharge or infection from/at private parts
- Stomach pain
- Pregnancy
- Discomfort/pain while walking or sitting down

**Important message to be conveyed to the participants**

While it is important to be able to recognize signs and symptoms of abuse, it is equally important to understand that children with these signs require specialised counselling, care and healing, which a Probation Officer may not be equipped to provide. Therefore, once symptoms or signs of abuse are identified in a child, the child must be referred to a psychologist and other specialists for proper counselling/psycho-therapy and healing. An abused child who leaves the juvenile justice system or care and supervision of a Probation officer without being healed cannot be said to have been suitably rehabilitated. The reports of the Probation officers, case history and such other documents must therefore, as far as possible, make recommendations for referral to specialists and experts if needed.

**1. Some impacts of negative or unhealthy childhood experiences on young people**

Child abuse leaves several impacts on a child, some short-term and others long-term. Some of the scars may be physical, lasting for a period of time or forever, while others are emotional, damaging a child's sense of self, ability to have healthy relationships, and ability to function at home, at work and at school.

Inter-generational impact is what is carried from one generation to another. Often an abused person tends to inflict abuse on others knowingly or unknowingly, thus continuing the cycle of abuse. This is because they have learnt no other way of dealing with children or others.

It is not that we do not know these facts. It is just that in our efforts to live our daily lives and stick to our routines, child abuse and its impacts are the last that come to our mind. Therefore, it is important for all child protection workers to understand the impacts of child abuse and keep these in mind while planning for a child's rehabilitation and social re-integration.

**Some impacts of child abuse that have been well documented and analyzed include:**

- mental and physical health challenges that may be short-term or long lasting
- problems in developing and maintaining healthy relationships
- learning difficulties in school and the social environment
- behavioural problems such as hiding mistakes, being in a state of denial, becoming submissive, fearful or/and aggressive, including delinquency

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- adjustment difficulties in family and community
  - drugs and substance abuse issues

**The Impact may vary from child to child**

- Something that is traumatic for one child may not be for another.
- The degree to which a child is impacted by trauma is influenced by
  - his or her temperament;
  - the way the child interprets what has happened;
  - his or her basic coping skills;
  - the level of traumatic exposure;
  - home and community environments; andthe degree to which a child has access to strong and healthy support systems.

**Often what may seem to be a symptom of abuse could actually be the impact of abuse. Therefore, as mentioned earlier, when a child is identified with any of the symptoms or impacts of abuse, the child must be referred to a specialist for healing and treatment.**

**Understanding impact of neglect and abuse especially in the context of children in conflict with the law**

- Majority of youth who develop a pattern of delinquent behaviour and experience subsequent involvement in the criminal justice or youth justice system have faced both serious adversities and traumatic experiences.
- It is not likely that just one traumatic event will lead a youth to become violent or antisocial.
- Rather, it is both a series and pattern of traumatic events – occurring with no protection, no support, and no opportunities for healing – that places youth at the highest risk (Garbarino, 2000).
- Experience shows that broken families, violence in family and community, peer influence, drugs and alcohol, love affair have been the main causes of children coming in conflict with the law.
- When children are cared for by parents who protect them, interact with them, and nurture them, they can learn to trust others, develop empathy, and have a greater capacity for identification with social norms (Putnam, 2006).
- But when they are neglected by their very own or trusted people, are rebuked, subjected to violence and abuse, they either lead traumatised life and become even more vulnerable to abuse, or end up as perpetrators of similar behaviour vis-à-vis others.
- Loss of a caregiver or being parented by a significantly impaired caregiver can disrupt children's abilities to manage their emotions, behaviours, and relationships.
- Exposure to child abuse and neglect can restrict brain growth especially in the areas of the brain that control learning and self-regulation (DeBellis, 1999).

- Victimization, particularly when it goes unaddressed, is a violation of our social contract with youth and can create a deep disregard both for adults in general and the rules that adults have set (Cook, Blaustein, Spinazzola, & van der Kolk, 2003; Cook et al., 2005).
- Distrust and disregard for others, rules, and laws place youth at a much greater risk for delinquency and other inappropriate behaviours.
- When youth live in unpredictable and dangerous environments they often, in order to survive, operate in a state of hyper vigilance.
- Clinical dictionaries typically describe hyper vigilance as abnormally increased physiological arousal and responsiveness to stimuli, and scanning of the environment for threats.
- Individuals who experience hyper vigilance often have difficulty sleeping and managing their emotions, and because they often see people or situations as a threat they are more likely to react in aggressive or defensive ways.
- The mind-set and skills involved in hyper vigilance fundamentally conflict with the skills and focus needed to succeed in school academically, socially, and behaviourally.

## **1. Dealing with child abuse and its manifestation such as child marriage and child labour – what can Probation Officers do**

### **A. Some manifestations of child abuse, violence and exploitation**

Besides physical injury, negligent treatment or maltreatment, sexual abuse, psychological and emotional harm, child abuse may manifest itself in some of the worst forms of exploitation such as:

- (a) Economic exploitation or child labour
- (b) Child Marriage
- (c) Trafficking

*Many of the children that the Probation Officers deal with fall under these categories or manifestations of child abuse and exploitation.*

**Did you know???**

Child Marriage	DLHS II (2002-04) (in percent)	DLHS III (2007-08) (in percent)
<b>Girls</b>	28.0	22.1
<b>Boys</b>	20.7	23.4

A larger percentage of boys than girls is getting married at a lower age. Rates of child marriage among girls under age 15 are falling twice as fast as those among girls under 18. But the progress is not sufficient to guarantee children their full rights, says UNFPA.

**India accounts for the highest number of child labour in the world. Poor rates of prosecution and conviction can shatter children's confidence in the system**

A quick look at the statistics tells us how limited the use of the law against child labour has been in the past.

Details of Action Taken Against Employers Under the CLPRA, 1986			
Year	Violations	Prosecutions	Convictions
2011	14423	6017	984
2012	12052	5018	1144
2013	8991	3563	1061
2014	1027	792	754

Government of India, Ministry of Labor and Employment, Lok Sabha Unstarred Question No.1285, Answered on 01.12.2014, Conviction under Child Labour Laws.<http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=6668>

The government in its reply to the question raised in the Parliament noted that most employers were acquitted by the courts as the prosecution failed to prove the offence due to the casual approach of the prosecution witnesses and inability to produce independent witnesses.

**A. What can Probation Officers do when they discover a fact of abuse, violence or exploitation of a child or have apprehension about a child likely to be subjected to abuse if released or restored**

**How can we address child abuse?**

The most important starting point is to:

- Build an understanding of abuse
- Learn to recognise signs of abuse
- Build a rapport with the child placed in your supervision
- Encourage children to report abuse
- Believe the child, even if it turns out to be a false alarm at the end
- Act immediately to help the child

We can heal an illness with an antibiotic or we may choose to diagnose the real cause and treat it so that the illness does not repeat itself or the risk of repetition is reduced. Child abuse cannot be dealt with symptomatically.

**Important points to remember...**

**Role of a Probation Officer**

A Probation officer is like a teacher, who forms an important part of the life of any child that comes into the juvenile justice and child protection system. This teacher can be someone to look upon as a role model, a friend and a mentor. Thus, the child must form a unique relationship with this teacher.

The Probation Officer or rather teacher, can play a vital role in the growth and development of the child.

The Probation Officer can ensure this by taking small steps, like establishing a special bond with the children they deal with so that they do not hesitate to discuss their problems and concerns with their Probation Officer, watch out for symptoms in these children which foretell signs of abuse, exploitation and violence and help the children by reducing their trauma and taking necessary steps, including building rapport with their parents and community.

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- Some signs and impacts of abuse may require greater probe and understanding to arrive at a conclusion. But that is the role of an expert.

**The Probation Officers should be able to identify such behavioural patterns, not to deal with them on their own, but to refer the child to a mental health professional for further diagnosis and treatment.**

- There may be other linked problems that will have to be looked at and addressed in different ways.

**For example, the child before you may not have directly suffered domestic violence but has witnessed it in the family when her/his father comes home drunk and beats up her/his mother. This child may not have directly received a beating but has suffered mental pain and agony. Such children are victims of mental abuse, emotional abuse and neglect.**

For the Probation Officer it becomes important then to mention these facts in his reports and children's case history and care plans so that appropriate measures may be taken to address issues of domestic violence and alcoholism in the family, to reduce the child's suffering and ensure that the child does not keep coming back into the juvenile justice system.

**Counselling the family of the child could be one such measure.**

Such an approach is a holistic approach and is also rights based because it is based on the principle that every child has a right to receive parental love and care, a right to family and a right to feel safe and protected.

### **Dealing with married children in the juvenile justice system**

Many young boys and girls who get married at an early age are trapped in the juvenile justice system. While the girls are treated as children in need of care and protection, the boys end up in observation homes as children in conflict with the law facing charges of kidnapping and rape.

The case before a Child Welfare Officer or a Probation Officer could be of a girl who was forcefully being married off by her parents or one who ran away with her boyfriend and got married before attaining the legal age for marriage. In the latter, the boy in the marriage could find himself in the juvenile justice system as a child in conflict with the law on charges of kidnapping or rape or both.

In both cases, the children would need help.

**Child Welfare Officers/Probation Officers and Lawyers representing these girls and boys have a special responsibility to ensure that all decisions taken with respect to their care, protection, rehabilitation and reintegration is in their best interest and is in keeping with the law too. Probation Officers must know the laws that come into play in such cases.**

The child marriage law does not declare all child marriages null and void and hence treats them as valid marriages until either party to the marriage seeks annulment.

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On the other hand, by virtue of the POCSO Act, sexual activity between or with a minor would amount to statutory sexual assault since the question of consent has no meaning when it comes to children below the age of 18 years.

Yet after the Criminal Law Amendment, 2013, the IPC recognises only rape by a husband on his wife who is below the age of 15 years as statutory rape.

The Juvenile Justice (Care and protection of Children) Act, 2015 recognises children forced to marry as children in need of care and protection and yet because of the laws mentioned above, minor boys in a case of child marriage may come to be treated as children in conflict with the law and may even be subjected to the adult criminal justice system if they are in the 16-18 year agecategory and booked for rape and kidnapping. Their trial as adults and subjection to the criminal justice system would depend a lot on the Social Investigation Report of the Probation Officers and their recommendations.

This imposes a huge responsibility on the probation officers to be objective in their reports, leaving aside all biases and prejudices and following the principle of best interest of the child.

### **KIDNAPPING & ELOPEMENT**

**Probation Officers should also bear in mind the following facts before they recommend any action in their reports.**

- Most girls who elope with their boyfriends do not want to go back with their parents and wait for the courts to release their male partner/husband. Some are even pregnant.
- But there may still be some desperate to be with their family, who were perhaps only looking for some authority to intervene to make their parents understand that they should be allowed to marry a person of their choice or they only wanted someone to stop their marriage and give a clear message to their parents that child marriage is an offence.
- Sometimes, even when the young girls and boys have no problems from their families after eloping and getting married, they realise that they are unable to adjust in the new situation.
- Boys are suddenly burdened with the responsibility of fending for themselves and an additional person in their life. They are laden with additional demands for time, money and responsible behaviour, which they were never prepared for.

Their immaturity does not help as they tend to find a solution in spending more time outside the home and avoiding family or in drinking, gambling, resorting to theft and such other crimes for adding to family income, and resorting to violence at home in times of frustration.

#### **▪ Dealing with child labour or children with a history of economic exploitation**

Another very large segment of children that the Probation Officers have to deal with are those rescued from child labour situations or children in conflict with the law who have been street and working children or have had a history of economic exploitation. These children come into the juvenile justice system totally scarred and hardened, which may or may not be easily visible in their behavior and appearance.

Probation Officers may be familiar with cases where children have taken out their anger against their employers by planning a theft in their own employers' homes or turning violent, to the extent of killing them. They may not even show signs of remorse.

Children rescued from labour are often so keen to go back to their family that they refuse to share any experience of abuse at the hands of their employers. One often wonders why would they like to go back to a life of drudgery.

<b>Kidnapping and Abduction cases that qualify as cases of child trafficking</b>											
<b>Year / →</b>											
<b>↓ Purpose of kidnapping and abduction / trafficking</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Adoption	21	15	41	23	36	34	44	37	62	46	111
Begging	6	20	19	24	13	17	30	34	45	29	44
Illicit Intercourse	383	414	501	676	649	825	765	749	1373	1113	2910
Marriage	1369	1593	1693	2621	3224	4003	4177	5193	8409	10572	14242
Prostitution	58	101	117	148	130	130	165	93	137	143	60
Selling body Parts	0	1	3	1	0	0	0	0	0	0	0
Unlawful activity	109	92	58	30	84	138	219	160	222	270	382
Slavery	6	16	4	15	35	32	49	26	24	5	19
Sale	13	13	9	11	12	14	39	51	166	54	49
<b>SUM TOTAL</b>	<b>1965</b>	<b>2265</b>	<b>2445</b>	<b>3549</b>	<b>4183</b>	<b>5193</b>	<b>5488</b>	<b>6343</b>	<b>10,438</b>	<b>12,232</b>	<b>17,817</b>
Source: Crime in India Publications, National Crime Records Bureau											

- **While it is important to recommend that children be sent to school, it is often easier said than done.**

Meeting the educational needs of children in the juvenile justice system has remained a challenge. While children in need of care and protection living in child care institutions have better opportunities of schooling, children in conflict with the law placed in observation homes, special homes or place of safety often remain out of the school system. A few of them may at best be able to pursue their education through the open school system, provided they have had some basic education in their life.

The Probation Officers must assess the situation and factors that can help in enrolling a child in school and ensure necessary linkages with relevant Departments that can help achieve this goal. They may even come to a conclusion that a child is too old to go to a school and hence it would be better to find him/her some suitable vocational training.

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Most parents want to educate their children, or at least give them basic quality education. But they will need assistance. For uneducated parents or parents of first generation learners, there is little information about the complex admission procedures and other formalities required to enroll a child in school. The situation is even worse in the case of children with an age-education gap i.e. when they are to be enrolled in school at an age higher than that acceptable under the norms. Documentary evidence of date of birth, caste certificates are additional barriers in enrolling children into schools.

For children, the curriculum is tough to cope with, particularly if they are first generation learners as their parents are not educated to provide the back-up support at home by helping them with the homework.

### **Facts a Probation Officer must find out and know and suggestions for some possible actions**

- Children often start working at a very early age and are thrown into the unfriendly and alien environments to fend for themselves.
- Exploitation and abuse of children in the labour force is rampant. Every now and then newspapers report about child domestic workers or children in dhabas getting beaten up at the hands of their employers, or being sexually abused either by the employer or by the owner or staff of the placement agency that found them the job.
- Over time, children may learn to humbly accept being subjected to long hours of work, violence and abuse and may not even see it as such. They become immune! But as we know, different individuals have different immunity levels. So some may endure pain, but some others may rebel and turn delinquent.
- On the other hand, we do know of cases where schools have refused to take back children in conflict with the law or children have themselves withdrawn from school due to labelling and stigma. These children too end up in the labour force at an early age.
- For many children in the workforce, it may be about being able to earn a living on their own, helping their families with some income, being independent even if that comes at a cost of their own well-being, growth, development and protection. And they are likely to value this more than the life they led at home.

And many children rescued from labour or with past history of labour may not report any abuse.

However, the fact is that the existing laws recognize child labour as a form of exploitation and cast a responsibility on all citizens and particularly people holding public offices to protect these children from any likelihood of abuse in future.

Child labour is banned up to the age of 14 years in all hazardous occupations [65 processes and 13 occupations, including domestic work and working in dhabas and restaurants are listed as hazardous processes and occupations under the Child Labour (Prohibition and Regulation) Act, 1986]. The Juvenile Justice (Care and Protection of Children) Act, 2015 recognises employment of a child under the age of 18 years and keeping such child in bondage or withholding the child's earnings or using a child's earnings for self as a cognizable offence under section 79 of the Act, punishable with rigorous imprisonment up to five years.

- **While institutionalisation should be a measure of last resort and restoration, rehabilitation and reintegration are the goals of juvenile justice, there are no easy solutions. Only a**

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**case to case approach in line with the principle of best interest of the child would work best.**

- Restoration to family may not be the best option in cases where the condition in the child's family or community is not conducive for his/her growth, development and protection, and child's family is not supportive or is likely to subject the child to harm once the child is restored. There could be cases where any member of the child's family was responsible for forcing the child to work or for allowing the child to be trafficked into labour. At the same time children should not be deprived of family environment.

If these principles are clear, it will be easier for the Probation Officers to recommend measures such as:

- Counselling of family before restoration of the child
- Restoration on a supervision order
- Restoration/release through the Child Welfare Committee /Juvenile Justice Board having jurisdiction over the child's place of residence so that regular supervision and follow-up can be ensured.
- Action against the employers and placement agency if any under the existing laws.

There are several factors that keep children away from school such as corporal punishment, caste discrimination, lack of basic facilities such as toilets and drinking water. In the case of girls, sibling care often becomes a priority since child-care facilities are lacking in both rural and urban areas and gender biases are deep entrenched in people's psyche. While these are factors beyond one's control, they are important to be borne in mind as some of them can be discussed with children and their families during counselling and solutions could be worked out.

**The Probation Officers must therefore collect all facts relating to children's conditions of work, their earnings, subjection to physical abuse or neglect or any other form of violence at work place, what did they do with their earnings, their aspirations for future, areas of interest, education level and such other details that will help them prepare a comprehensive report and recommend suitable measures for care, protection, treatment, rehabilitation and social reintegration of such children.**

## **I. Short Notes on Activity 2: Group Exercise based on Case Studies 2 and 3**

### **Explanation for Facilitator's use – Case Study 2**

- i. Anyone would be curious to know why a school going child from a seemingly good middle class family should even think about raising a bomb scare. Such a case must make any Probation Officer (PO) curious to know the child better. The only way out is to first believe the child and then open up a space for sharing.
- ii. It must be ensured that child is comfortable in speaking to the Probation Officer, that the place where the child is interviewed by the Probation Officer is safe and child-friendly and the child feels comfortable.
- iii. It may even be necessary to make a home visit to know the child's situation and family circumstances better before coming to any conclusion. But this too should be as per the child and his family's comfort levels.

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- iv. Efforts must be made to take them into confidence.
  - v. The Probation Officer must clearly explain his role to the child and the family at the very outset, before the child gets any wrong information from others. This is important because often children and their families are told that their case rests in the hands of the Probation Officer and therefore they must try and convince the Probation Officer to give a “good” report.
  - vi. The family must also be clearly and firmly told that no bribes will ever be tolerated.
  - vii. Clearly an act like the above would lead anyone to make certain assumptions. These could be:
    - a. The child simply wanted to test if the police is active and had the best intention of checking on people’s security and national security.
    - b. The child is watching too much television or reading novels and stories carrying similar content and is thus influenced by it.
    - c. The child was just playing a prank and did not know it could turn into a police case.
    - d. The child is an attention seeker and therefore wanted to do something that would bring him the much desired attention immediately.
    - e. The child did it under peer influence and wanted to prove to his friends that he could do anything and get away with it.
  - viii. The fact is that none of these can be ruled out. Therefore, the Probation Officer will have to interact enough with the child and her family to rule out or ascertain each of these assumptions. Talking to friends would be useful, but it should not be done unless the child or his family’s apprehensions about stigma or trouble to friends, etc. are dealt and dispensed with adequately.
  - ix. It may be explained to the child that a chat with her friends could happen over a party hosted at the child’s house. But this can only happen when the child is released on bail or is out of the observation home and placed under the supervision of the Probation Officer. The new Juvenile Justice Act, 2015 clearly provides that a child may be placed under the Supervision of the Probation Officer either by the police soon after apprehension (this could be in case of bailable offences), or by the Juvenile Justice Board. The Probation Officer may therefore seek such an order from the police in order to prepare a proper Social Investigation Report, explaining the reasons for the same, provided that it is first ascertained by the Probation Officer that the child is not likely to come under any threat to life or be subjected to any serious harm if released on supervision orders.
  - x. It must be remembered that attention seeking behavior is one of the symptoms of abuse. In all probability Puneeta did not even know she could get caught by the police for such action. Therefore, if the Probation Officer rules out all other assumptions and comes to a conclusion that the child has attention seeking behaviour, it becomes even more important to spend more time with the child to know more about her life. This may require seeking assistance from a trained counsellor. In that case orders may be sought from the Juvenile Justice Board for the child’s counselling. An ideal situation would be where the Probation Officer himself/herself is trained to counsel. It must be clearly understood that counselling is not giving advice.

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- x. The Probation Officer must be in constant touch with the specialists to whom a child may be referred.
  - xii. Counselling may be able to bring out stories of neglect and abuse that have led the child to behave in a particular manner. Often children who have been neglected by their parents end up showing symptoms of attention deficit disorder or attention seeking behavior. And neglect is an important form of child abuse.
  - xiii. Even when a child is watching too much television and not interacting with the family, possibility of neglect cannot be ruled out. So if the Probation Officer concludes that the child is under influence of media, it is important to find out how much time does the child spend in front of media, what type of media is she exposed to i.e. internet content, etc. and is this because her parents have no time for her.
  - xiv. Unless the neglect faced by the child is addressed through counselling of parents, the child cannot be suitably rehabilitated.
  - xv. It may not be the best decision to keep such a child in an institution. This is because she has a family. And her family holds morals and values in great esteem. All that the family needs is counselling that can help them know their child better and re-bond with their child. For the child too it is important that she understand her parents' point of view and learns to appreciate their situation. In their efforts to do the best for their children they may have never realized that they were actually doing the reverse and had wrong priorities or did not make the right choices.

### **Explanation for Facilitator's use – Case Study 3**

- i. Children run away from their homes for many reasons. Most such reasons would qualify as a form of child abuse. So whether it is neglect, or physical or constant verbal abuse that hurts a child's dignity, the child must be seen as a victim of abuse.
- ii. Even if a child is running away from home because his parents are forcing him to go to school, which is not to his liking, it needs to be addressed through counselling of the child and his family.
- iii. Drug abuse is often a result or impact of child abuse. Abused children look for different strategies to cope with their pain and dilemmas, and may take to drugs, if easily available.
- iv. In many families where the fathers or other elders consume alcohol, children first try to find solace in alcohol and would steal some for themselves. When their body becomes immune to alcohol they may look for other psychotropic substances and drugs, whichever is easily available. Even if not easily available, they may have reached a stage of addiction where they would take any risks to have access to drugs or other psychotropic substances. This could be striking a deal to sell drugs for someone in return for drugs for self-consumption.
- v. When a child's vulnerability is used by someone to commit an offence such as drug peddling, it would amount to yet another form of victimisation of the child and child abuse and exploitation.
- vi. Danny is clearly a victim of abuse every which way. Abuse, in any form whatsoever, is not a positive way of disciplining children. Therefore, even if his parents suggest that they beat up Danny or would give him *gaalis*, or constantly compare him with others his age in order to bring him under some discipline and to stop him from going astray, they were not doing

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the rights thing. This is not to blame the parents who do not know of any other better way. But it is important to make them understand that they have not been fair to their own child and also make them understand that even constant verbal abuse can cause damage to a child. Parents have to be counselled into learning to use positive ways of disciplining children.

- vii. If Danny is restored back to his family and they continue to behave with him the way they did before, nothing will change in Danny's life or their life and the child will never be rehabilitated and integrated into the society.
- viii. However, since Danny has committed the offence of drug peddling, he must understand the consequences of his action and must feel accountable.
- ix. Clearly, the Probation Officer will have to recommend regular counselling and de-addiction treatment for Danny, as also counselling for his family so that the child can be safely restored back once his treatment is over.
- x. The Probation Officer must have a list of all facilities providing de-addiction treatment for children and adolescents. Such facilities may not exist in a particular area. In that case, the Board should be requested to send the child to the nearest facility for treatment and such facility can be declared a "fit facility" under the Juvenile Justice Act, 2015. Declaration of a hospital or a rehabilitation and treatment centre as a "fit facility" will ensure supervision, monitoring and accountability.
- xi. In the absence of such a list, help should be taken from the District Child Protection Unit (DCPU) or the State Child Protection Society (SCPS) to identify a suitable rehabilitation and de-addiction treatment centre.
- xii. For such cases, it is important to take both the child and his family's views into consideration while preparing the care plan. It is equally important to make an assessment on how conducive it would be to send the child back home, based on the reports of the counsellors and other specialists involved in the child's treatment and family counselling reports.
- xiii. The only way to make a child feel accountable in such cases is to help the child realise his mistake and understand that drug peddling is an offence with negative consequences and impact for both the child and the society at large. Such an understanding will come through only after the child is treated for addiction and is in a position to understand whatever is communicated to him. A community service order may be sought from the Board in such cases, so that the child gets a sense of giving back to the society in some way and feeling accountable.
- xiv. De-addiction treatment must necessarily include engaging a child gainfully in some vocational training and skill development programme. Experience has shown that when children acquire skills that can help them find a decent job, they feel empowered and their sense of self-worth is also restored.

## II. Short Note on Summing Up and Concluding Remarks

Since issues of abuse, violence, vulnerability and psycho-social problems of children are intense, they require summing up to help the participants take the key messages back home. These could be:

- Each child in the juvenile justice is an individual with varying childhood experiences and with rights that must be protected.

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- Stereotyping and biases close all doors to objectivity and rationality.
  - Children in conflict with the law are first children in need of care and protection.
  - Child abuse and delinquency are often two sides of the same coin as abused children may look for coping strategies in drugs and/or crime and such delinquent behaviour.
  - Probation Officers are the backbone of the Juvenile Justice system and also for the child in conflict with the law who may have a history of abuse that needs to be dealt with in order to ensure reform, rehabilitation and reintegration.
  - Only when children are healed can they contribute to the society as useful and productive citizens and lay the foundations of a safe and secure society.
  - Probation Officers cannot be the healers in every case. Some abused children may require help of a specialist.
  - But what all Probation Officers can do is to use their knowledge and experience to identify signs of abuse and its likely impact on the child, which if mentioned in the child's Social Investigation Report, can help the Board decide on a suitable disposition and can play a significant role in preparing a suitable rehabilitation plan for the child.

**Feedback-** If time permits, a quick feedback may be taken on both content and method of training and how to improve it.

This may be done by asking participants to write down their responses to a few questions that may be circulated or simply through open house. Participants who do not wish to disclose their names in the written feedback should be allowed to do so.

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Session IV  
9.30 AM - 11.00 AM  
Total Time: 3 Hours 15 minutes

**MODULE FOR TRAINING OF LEGAL SERVICES LAWYERS AND PROBATION OFFICERS ATTACHED TO THE JUVENILE JUSTICE BOARDS ON UNDERSTANDING CHILDREN IN CONFLICT WITH LAW UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

– Dr. Preeti Jacob\*  
– Dr. Deepak Jayarajan\*\*  
– Dr. Shekhar P Seshadri\*\*\*

**SESSION PLAN**

**Objective**

1. To provide Probation Officers(PO) an understanding of socio-cultural context of children in conflict with the law
  2. To give them an understanding of how risk factors combine to both precipitate and maintain antisocial behavior
  3. To understand the relationship between the brain and behavior
  4. To understand that children below the age of 18 years maybe developmentally immature which has a significant impact on behavior
  5. To understand that children in conflict may be vulnerable population and thus also in need of care and protection
- Expected learning outcome
6. Participants will be able to understand children in conflict with the law better including their predisposing, maintaining and precipitating risk factors
  7. They are familiar with the problems of children in conflict with the law and learn to address them
  8. They understand children in conflict with the law who are developmentally immature
  9. They understand that children in conflict with the law may themselves have been victims of abuse, exploitation and violence
  10. They are in a better position to assist the concerned authorities in dealing with children in conflict with the law

**Programme: 1**

- 1. Introduction** 10 minutes  
The facilitator will introduce the topic by explaining the importance of the subject for the probation officers.

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\*\*\* Professor and HOD, Department of Child and Adolescent Psychiatry in NIMHANS

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2.     **Brain storming** 30 minutes  
The facilitator will ask the participants to find the factors responsible for the child's action. The facilitator will pool the factors given by the participants in a tabular form and the facilitator will give his/her own explanation.
  3.     **Lecture by the resource person with or without the help of a PowerPoint** 30 minutes
  4.     **The participants will be divided in groups of 5 or 6 and each group will be given one case vignette with a view to answer questions mentioned for each vignette.** 20minutes
  5.     **Group discussion assisted by resource person** 1 hr 30 minutes
  6.     **Concluding remarks** 15 minutes

#### **Instructions for the facilitator**

The facilitator will provide print outs of the case vignettes at the appropriate time for distribution to the participants. The print outs of the explanations to the case vignettes will be supplied only after the discussion by the participants. The short note is for the benefit of the facilitator but can be shared with the participants at the end of the sessions.

#### **Suggested Methodology**

1.     Group discussion
2.     Lecture with power point presentation
3.     Group brain storming

#### **Tools required**

1.     Flip chart
2.     Blue tack
3.     Facility to display Power Point

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### Case Vignette 1

“J” is a 14-year-old boy. He is the youngest of 3 siblings. He lives with his parents and his two older sisters in a shack near a construction site. J’s father works as a security guard at the construction site. J’s father has alcohol dependence syndrome and would often suspect the mother of infidelity. During the father’s drunken rages, he would beat up the mother and all the children. The child had difficulty staying at one place and was quite hyperactive. He would often throw and break things at home if his demands were not met. As he was the only boy child, parents were often indulgent with him. As the family did not stay at one place for very long all the siblings did not go to school regularly. “J” stopped going to school since 2 years and would work at the construction site doing odd jobs. He would hang out with the older boys working in the construction site and started smoking at the age of 12 years. He had started using alcohol along with the other workers in the construction site. “J” did not have a good relationship with his mother. He felt that she was constantly fighting with his father, which was why his father would drink and beat them all. Both parents did not know what “J” did all day. He was close to the older sister. She ran away with one of the masons working in the construction site. The boy was very upset that his sister eloped. He felt his family’s honour was at stake and his older friends at the site would not respect him anymore. One day, the older boys with “J” hatched a plan and decided to beat up the man who had run away with his sister. All the boys were intoxicated. They ganged up and beat up the man and were charged with attempt to murder.

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## Case Vignette 2

“K” is a 16-year-old boy who was residing in the Observation Home (OH) after being charged and convicted with murder of another 16-year-old boy in his neighborhood. “K” was an orphan and used to stay with an old uncle in the outskirts of Bangalore. He was part of a gang of boys who would often trouble other people in the village. “K” was not as smart as the other children. He could barely write his name, could not read and write, and dropped out of school in the 6<sup>th</sup> standard. In his early childhood and during his schooling he was noted by his uncle and teachers to be extremely hyperactive. He started working from the age of 14 years as a mechanic. He would often leave work incomplete, forget instructions given to him and was often beaten up by the owner of the mechanic shop. He started using solvents and alcohol with the other boys in the gang. “K” felt the solvents and alcohol made him feel calm and helped his mind relax. He had been using these substances for the past 2-3 years with his friends and off late even alone.

One day, an altercation broke out between two gangs and “K” went to fight with the rival gang after consuming a significant amount of alcohol. During the fight one of the boys died and “K” was charged with murder. “K” could not remember the details of the fight due to his intoxicated state.

After he was brought to the Observation Home (OH), K had nightmares and couldn't sleep at night. He stopped eating and would not interact with the staff or the other boys in the OH. He would often get flashbacks (as though the events were occurring again). He started using solvents again in order to forget the intrusive memories. When he used solvents he could suppress these memories. He would often engage in self-injurious behavior and slit his wrists. He would often startle to small sounds and was often irritable and angry with the staff and the other boys in the OH.

### Questions

1. How can we understand “K”?
2. Does “K” have a psychiatric disorder?
3. What were the reasons why “K” came into conflict with the law?
4. How can we help this child?
5. What kind of personality traits is the boy developing as an adolescent?

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### Case Vignette 3

“M” is a 14-year-old boy who was residing in the Observation Home and was brought to the psychiatry department of a government medical college by the probation officer. He was charged with sexually assaulting and attempting to murder a 6-year-old girl child. The little girl was a distant relative of the boy and she knew him. She went with him to play and he took her to a lonely place and tried to assault her. When she cried and created a lot of noise he threw a huge stone on her and tried to escape. “M” was brought to the psychiatrist as he was not eating, would not talk to anybody in the Observation Home, and would often cry. He had attempted suicide (dangerous attempts) twice and as part of his Individual Care Plan, a psychiatry evaluation was requested by the Probation Officer and was granted by the judge.

In the beginning the child did not open up to the psychiatrist. He said he wanted to go home and missed his parents. His parents seemed very supportive. In fact, his father seemed over involved with the child.

On interviewing the parents, the psychiatrist felt that there was something amiss. The father spoke for both himself and the mother and did not allow the mother to speak at all. The father would not let the mother be interviewed separately by the doctor. When the mother was alone with the doctor for even a moment she would keep looking around to see if her husband was around. She told the doctor “I live in a terrible situation. I don’t know how my son could have assaulted that little girl. I know that he is troubled and upset. He is not a bad boy”. The father expressed disbelief that his son could have committed the crime. He told the doctor that the child was being framed and he would get to the bottom of it. He kept reassuring the child that he would get him out of the Observation Home as soon as possible. When asked about his home “M” did not report any family problems. He said he was closer to his father than his mother as his father would buy him anything he wanted. He however said that he was scared of his father and was worried that if he did not listen to him, his father would kill him. During one of the therapy sessions the child tearfully revealed that he had been having sex with his father for the past 4 years and with an aunty in his village for the past 2 years. He said he liked having sex with the aunty but did not like sexual activity with his father. He kept asking if the doctor would tell anybody. “M” said that if his father got to know that he had told the doctor his father would kill him. “M” said he loved his father very much and knew that his father loved him too but he did not like the sexual abuse. He said he knew it made his father happy. When asked about the sexual assault and the attempt to murder the little girl the boy said he was very sorry. He did not feel like a man and felt by having sex with a girl he would feel more like a man.

#### Questions

1. Has this child been abused?
2. What are some of the explanations for why children sexually assault others?
3. How is sexual abuse of boys different from that of girls?
4. How can we help this child?

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### Case Vignette 4

“T” is a 15-year-old girl who was sent to the OH after having been charged with theft. “T” was from a very poor family. Her mother committed suicide when T was around 3-4 years of age. T’s father had alcohol dependence syndrome and lived with his brother’s family. T’s uncle used to physically and sexually abuse T and her sister from early childhood. T never attended school regularly as her aunt would want her to finish all the household chores. T ran away from her home and was trafficked for sex work. She started using alcohol and sleeping pills after getting involved in sex work. She stole an expensive watch and a ring and was apprehended by the police. In the OH she was aggressive with the other children, was angry, irritable, would slit her wrists and couldn’t sleep at night.

#### Questions

1. What are the predisposing, maintaining and precipitating factors that you can identify in T’s case?
2. How are female children different from male children in conflict with the law?
3. How can we help?
4. Has stereotyping of family environment been a factor?

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### Case Vignette 5

“B” is a 15-year-old boy studying in the 10<sup>th</sup> standard. He comes from a well to do family. Both parents were IAS officers. “B” was the only child. He was apprehended after driving rashly and killing two pedestrians. He was intoxicated at the time.

B’s parents say that he was always a difficult child. He was always hyperactive and difficult to manage. As a child the child had a number of nannies as no one could manage him well. They have always had to change a number of schools as he would become aggressive in school and the school no longer wanted to keep in him on their rolls. B’s parents were always very busy. They also had significant differences between themselves and did not agree with each other on how to bring up the child. They took him out on expensive holidays, bought him everything he wanted. He went to the best schools in his city. However, both parents hardly spent any time with the child. He was brought up with nannies most of whom left after 1-2 years. As a child B used to throw a number of temper tantrums and he always got what he wanted after the temper tantrum. Both parents were extremely indulgent with ‘B’ and no parent wanted to be the “Bad person” in the child’s eyes. In early childhood they took him to a psychiatrist but did not follow any of the advice suggested by the psychiatrist due to their busy lives. After the VI Standard, the child started bunking school and smoking with his friends. He would often bully his friends and classmates. In the VIII Standard he started staying out all hours of the night. Parents often did not know when he would come home. If they did not allow him to go out, he would become aggressive and hit his mother or the house help and break expensive things at home. He was caught shoplifting on two occasions but was let off with a warning. He would go out in the night driving a car even though he did not have a license. Parents allowed him to drive as they felt if they didn’t he would become aggressive at home. He was very angry after being apprehended.

#### Questions

1. What were the reasons why this child came into conflict with the law?
2. Can a child have everything materially and still experience neglect?
3. What can we do for this child?
4. What is the kind of parenting pattern that has strongly pre-disposed this child ?

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**In this approach, children are understood based on the following paradigm:**

<b>Predisposing Factors</b>	<b>Maintaining Factors</b>	<b>Protective Factors</b>	<b>Precipitating Factors</b>
<ul style="list-style-type: none"> <li>• Difficult temperament</li> <li>• Inconsistent parental discipline (would buy him things when he demands it)</li> <li>• Permissive parenting (poor expectations from the child)</li> <li>• Parental substance use problems (father had alcohol dependence syndrome)</li> <li>• Parental psychological problems (father suspected the mother of infidelity, could be a psychiatric disorder called Delusional Disorder)</li> <li>• Poor attachment with mother</li> <li>• Marital discord</li> <li>• Marital violence</li> </ul>	<ul style="list-style-type: none"> <li>• Positive beliefs about drug use</li> <li>• Immature defence mechanisms</li> <li>• Dysfunctional coping strategies</li> <li>• Parents model and reinforce both drug use and problem behaviours</li> <li>• Poor parental supervision</li> <li>• Chaotic family organization</li> <li>• Ongoing availability of drugs (alcohol, tobacco)</li> <li>• Friends with other older peers who use drugs and who are deviant</li> <li>• Susceptibility to peer pressure</li> <li>• High family stress (Chronic stress)</li> <li>• Social disadvantage</li> <li>• Poor social support network</li> </ul>	<ul style="list-style-type: none"> <li>• Average intelligence</li> </ul>	<ul style="list-style-type: none"> <li>• Availability of drugs</li> <li>• Curiosity about drugs</li> <li>• Peer pressure to engage in deviant activities</li> <li>• Sister's elopement</li> <li>• Perceived affront to family honour</li> </ul>

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In the case in the Vignette 1 above, the factors that contributed to the child coming into conflict with the law can be studied by identifying the factors that contributed to a child coming into conflict with the law.

### **Explanation for case vignette 2**

K was already a vulnerable child. He was an orphan with very little family support. He stayed with an old uncle who was neither able to provide care and nurturance nor able to provide supervision to him. K looked to his friends for support as they were his surrogate family. He also fell in the lower end of the intelligence spectrum (Borderline Intelligence, IQ between 70-80) and thus had difficulty in school. He could follow others but had difficulty making sensible decisions on his own.

K also had another neuro-developmental disorder called Attention Deficit Hyperactivity Disorder (ADHD). In this condition, there is a persistent pattern of hyperactivity, impulsivity and inattention that is seen. As seen in the case, from early childhood there is significant hyperactivity (always “on the go”, difficulty in sitting still) impulsivity (aggressive) and had inattention (distractible, couldn’t complete work, would make careless mistakes in school work). Due to the ADHD and the borderline intelligence the child could not do well in school. The school being punitive and unsupportive did not understand the child’s problems. He dropped out of school in the 6<sup>th</sup> standard. Not being engaged in the schooling system was another reason for him coming into conflict with the law. Since he was part of a deviant peer group and had difficulty in decision making, planning and understanding consequences of actions he was already at considerable risk.

ADHD is a common behavioural problem in children. There is an association between ADHD, conduct disorder and substance use disorders. The presence of ADHD in particular worsens the prognosis of both the substance use disorder and the conduct disorder, increasing the likelihood of coming into conflict with the law over and over again. The substance he was using namely alcohol and solvents were likely to make attention, memory, planning, decision making worse and would increase impulsivity, decrease affect regulation and make the individual more likely to take unnecessary risks. Other factors that must be kept in mind for this child are lack of a caring family, poor supervision, lack of limit setting, deviant peer relationships and chronic stress.

After the murder, “K” developed Post-Traumatic Stress Disorder (PTSD). This is a psychiatric disorder which occurs as a reaction to directly experiencing a traumatic event(s). It is characterized by recurrent, involuntary, distressing memories of the traumatic event (in the form of frightening dreams, flashbacks, dissociative reactions etc), avoidance of stimuli associated with the traumatic event (efforts to avoid distressing memories, avoiding external reminders like people, places, activities, objects associated with the traumatic event), negative alterations in cognition and mood (in the form of irritability, anger outbursts, diminished interest in activities, inability to experience positive emotions) and alterations in arousal and reactivity (self-destructive behavior, hyper vigilance, exaggerated startle response, sleep disturbances). K was using solvents to cope with the symptoms of PTSD. K requires a detailed evaluation and both pharmacological and psychosocial management in order to deal with his problems.

### **Individual Care Plan for K**

Mental health screening, assessment and ongoing psychiatric/psychological care even after he receives bail is vital for a child like K. He had psychiatric (ADHD and Substance Use Disorder), psychological (Borderline IQ) and psychosocial (lack of supervision, lack of parents etc.) vulnerabilities which led to his coming into conflict with the law. Thus these vulnerabilities need to be addressed so that he does not go back to the same risk factors and vulnerabilities again and run the risk of coming into conflict with the law again. He developed another psychiatric disorder namely PTSD after coming to the OH. Therefore, he needs ongoing psychiatric care even after his bail. He may require medication as well as psychological counseling. He will also need vocational training and rehabilitation.

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### **Explanation for case vignette 3**

There are a number of myths associated with sexual abuse of boys. As we live in a patriarchal society, it has been instilled in all of us that boys cannot be sexually abused. Even young boys are not thought of as being vulnerable. However, people in authority can abuse young boys much like the abuse of girls. The young boy may be shamed and humiliated but he may never come forward and report it. Young boys may look at it as an affront to their masculinity. Sexual abuse of young boys is quite common. In fact, in the 2007 study by the Ministry of Women and Child Development, Government of India, 53% boys reported abuse. People assume that boys are less affected by the abuse when in fact this is another myth. Children of both genders are significantly affected by sexual abuse and long term sequelae are damaging for both genders. People also feel that if the boy was sexually aroused or had an orgasm then he was a willing participant. In reality a child can be aroused even in traumatic or painful sexual situations. Many survivors of sexual abuse feel guilt and shame towards the abuse as they responded physically. Being physically aroused does not mean that the child wanted the abuse or was a willing participant. Again it is a myth that sexual contact with an adult woman for a young boy cannot be a traumatic experience and may not even be abuse. Sexual activity at a young age can be confusing and when it is perpetrated by a person who is trusted, or in authority/power it can have damaging long term consequences whether the perpetrator is a male or a female and whether the victim is a male or a female.

Lastly, it is assumed that all males who have been sexually abused go on to sexually abuse others (“Vampire Syndrome”). Again this is not true. ALL children who are sexually abused do not go on to sexually abuse others. Studies have shown that the boys who were believed and supported by the significant people in their lives do not go on to abuse others. Although this case highlights the fact that “M” went on to abuse someone else, he was as much a victim and did not receive any help or understanding for having undergone years and years of abuse.

### **Individual Care Plan**

This child requires a detailed assessment and psychological help for all the trauma that he has faced in his life and for the crime perpetrated. Counselling by a person who has worked with victims and perpetrators of sexual abuse will be helpful. He needs to continue his academics and to be kept engaged. He cannot be sent with his parents. He needs to stay in a residential school for his care and protection. The school authorities must also be aware and vigilant so that he does not abuse any other child. The authorities need to decide regarding pressing charges against his father and the woman in his village. The child will need psychological support during this process as he is very close to his father. The mother must be given a chance to build a relationship with the child so that they can support each other. He will need ongoing psychological help.

### **Explanation for case vignette 4**

Female children bring with them complex physical and mental health related issues. Involvement in the juvenile justice system in fact compounds these issues further. Many girl children come from brutal backgrounds with history of significant physical/sexual abuse and trauma. In fact, many of them meet criteria for PTSD (Post Traumatic Stress Disorder) but never get treatment. Self-medication by using sleeping pills or the use of alcohol is often a method to deal with severe trauma and PTSD. Once the children are dependent on substances they need money to continue the habit and often come into conflict with the law thereafter. In this child’s case, she was from a socially disadvantaged and abusive background and thereafter underwent more trauma when she was trafficked for sex work. Keeping in mind her family history of completed suicide by the mother and substance use disorder in the father, this is a terribly vulnerable child. As she has been sexually abused and was trafficked, she needs a

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detailed physical examination to rule out sexually transmitted diseases. She may also need to undergo detoxification from the sleeping pills and alcohol. She needs a detailed assessment and individual therapy in order to deal with the traumatic events of the past and to help her build a future.

### **Individual Care Plan**

Girls who come into conflict with the law need sensitive care. A mental health assessment is required. A medical evaluation is required to look for any physical problems as well as any sexually transmitted diseases after obtaining the child's consent. Counselling is required as these children have gone through significant trauma in their lives and need closure and healing. Vocational rehabilitation must be done as well.

### **Explanation for case vignette 5**

One of the vulnerabilities that this child had was his temperament. As explained earlier, temperament is an individual characteristic that has a biological component (i.e innate) as well characteristics that can be shaped by the environment. The child had a difficult temperament and the parents could not modulate it. The child did not get enough care and attention from his parents. His attachment to them was poor. The nannies kept changing every 1-2 years so he had no stable attachment figure. "Goodness of fit" is simply defined by the fit between the child's temperament and the environment. In this child's case there was a poor fit. As mentioned before there was no stable attachment figure. Parents had marital discord and wanted to "bribe" the child into liking one parent more. There was no limit setting. He was allowed to do anything and everything he wanted. They inadvertently rewarded bad behaviour. When he threw a temper tantrum he was rewarded for it by getting what he wanted. He also had ADHD which has been discussed in some detail in the previous case vignette. The parents had briefly sought help for it but had not followed up with the psychiatrist. He also had Conduct Disorder which is a behavioural disorder characterized by aggression to people and animals, destruction of property, deceitfulness or theft and serious violation of rules (Eg. Staying out late at night, truancy, running away from home). In this background, the child started using substances like alcohol as well. Given his ADHD, Conduct disorder and Substance use, his judgment is likely to be significantly affected. Parents could not give this child the supervision and the stable environment that he needed. Although he was not lacking for anything materially this child was neglected.

### **Individual Care Plan**

This child needs a mental health assessment as well as ongoing care for his psychological and psychiatric problems. Parents need to be counselled as well. Parents need to improve parenting with the child so that they can share a good relationship with the child as well as discipline effectively. The entire family may benefit from family therapy. Having a good older/peer role model may also help this child. The child needs to be kept busy with structured academic and extra-curricular activities. Counselling for the child needs to focus on anger management, perspective taking, effective problem solving. The child may also require medication to help control the ADHD. Using the principles of restorative justice may also be very useful to rehabilitate this young boy

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**SHORT NOTE ON**  
**UNDERSTANDING CHILDREN IN CONFLICT WITH LAW**  
**UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)**  
**ACT 2015**

– Dr. Preeti Jacob\*  
– Dr. Deepak Jayarajan\*\*  
– Dr. Shekhar P Seshadri\*\*\*

### **Introduction**

In a meeting of stakeholders in the area of juvenile justice to identify the topics which the Probation Officers would like to particularly know, child psychology emerged as the most favourite one. We are particularly dealing with children in conflict with law. How and why does a child find himself in presence of the law enforcing authorities with accusing fingers pointing towards him? Is it by sheer accident? Could such a situation be anticipated? Can recurrence of the same be avoided? Does it deserve to be condemned? Is it possible to place ourselves in the shoes of the so called juvenile delinquent and see the world around him as he does? With this view in mind we have designed this module on understanding a child in conflict with law.

A Probation Officer needs to understand the facts and circumstances surrounding the life of a child when he/she prepares a Social Investigation Report. If the Juvenile Justice Board actually finds that the child has committed the offence alleged against him, the Board is required to prepare an action plan to reform, reintegrate and rehabilitate the child in the society. All this, the Board can do with the active support and involvement of the Probation Officer.

Each child's life story is different from another child's life story. Two children growing in the same socio-economic situation grow into two different personalities. Children in conflict with law are said to come from the socially and economically deprived sections but not all children from that environment turn out to be delinquent. What is it that makes one child more vulnerable than another? Answer lies in connecting and communicating with the child and in identifying oneself with the personality of the child. The Probation Officer can best do his/her job of identifying the causes of delinquency and to plan the child's reintegration and rehabilitation only if he fully understands the child.

### **Factors responsible for shaping a child's personality**

Every individual has his/her own set of beliefs and pattern of behavior. What is normal for one maybe viewed as abnormal by another. What is moral for one maybe seen as a sin by another. The same situation may draw different reactions from different people. Seeing a wallet lying unattended, one may pick it up with intent to steal while another may pick it up with a view to restore the wallet to the owner while yet another may totally ignore the same.

There are many factors which are responsible for encouraging such behavior or that inhibit such behaviour from occurring. These factors can be grouped into predisposing factors, maintaining factors, protective factors and precipitating factors.

#### ***Predisposing factors***

Predisposing factors are defined as factors that exert their effects prior to a behavior occurring by increasing or decreasing a person's motivation to undertake that particular behavior. For instance,

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in case vignette 1, inconsistent parental discipline along with parental psychological problems can be considered as predisposing factors.

### **Maintaining Factors**

Sometimes there are factors that maintain a problem. In other words, sometimes certain factors perpetuate the problem. For instance, in case vignette 1, some of these factors can be considered as maintaining factors namely, positive beliefs about drug use, immature coping mechanisms.

### **Protective Factors**

Protective factors are conditions or attributes (skills, strengths, resources, supports or coping strategies) in individuals, families, communities or the larger society that helps people deal more effectively with stressful events and mitigate or eliminate risk in families and communities. They reduce the probability of a disorder (Eg. parental monitoring, problem-solving skills and school connectedness). In case vignette 1, the child having an average intelligence was a protective factor.

### **Precipitating factors**

Precipitating factors are those that trigger the predisposing factors to result in a problem that the individual was already vulnerable to. Precipitating factors are stressful events in the individual's life. The event in itself maybe neither good nor bad. But the individual will interpret it as stressful. Precipitating factors include the stresses of fight with a family member or moving to a new environment. Again in case vignette 1, some of the precipitating factors were easy availability of drugs, peer pressure etc.

The predisposing, maintaining, protective and precipitating factors have been listed in a tabular column earlier in the document.

### **Orientation to “Children in Conflict with the Law”**

#### **Who is a child in conflict with law?**

- A “child” means a person who has not completed eighteen years of age
- A “child in conflict with law” means a child who is alleged or found to have committed an offence and not who has not completed eighteen years of age on the date of commission of such an offence.

#### **Some Statistics**

- 42% of India's population is below the age of 18 years
- Juvenile crimes accounted for 1.2% of the total crimes reported in the country in 2013
- Of the children apprehended in 2013, 31% were between the ages of 12-16 years and 66.66% were between the ages of 16-18 years (NCRB,2013)

#### **Factors associated with juveniles' involvement in crime**

- As per the NCRB 2013, low income, education and poor economic set up were the main reasons for delinquent behaviour.
- Study done in AFMC, Pune showed that children in conflict with law belonged to social-economic strata. They came from broken families, had jailed family members, were more likely to have been abused either physically or sexually and had substance addictions themselves as compared to controls (Gupta, A 2015)

- Children in conflict with law are vulnerable population
- There are a number of international laws pertaining to children in conflict with law
- The United Nations Convention on Rights of the Children in Conflict with the Law and 40 State that Children in conflict with law have the right to treatment that promotes their sense of dignity and worth, takes into account their age and aims at their reintegration into society.
- The UNCRC also states that placing children in conflict with law in a closed facility should be a measure of last resort, to be avoided whenever possible. The Convention prohibits the imposition of death penalty and sentences of life imprisonment for offences committed by persons under the age of 18.
- India is a signatory to the UNCRC
- United Nations Children Emergency Fund (UNICEF) aims to reduce incarceration while protecting children from violence, abuse and exploitation.
- UNICEF promotes rehabilitation that involves families and communities as safer, more appropriate and an effective approach than punitive measures.
- Justice system designed for adults often lack the capacity to adequately issues and are more likely to harm than improve a child's chances for reintegration into society.
- For all these reasons, UNICEF strongly advocates diversion (directing children away from judicial proceedings and towards community solutions), restorative justice (promoting reconciliation, restitution and responsibility through the involvement of the child, family members, victims and communities), and alternatives to custodial sentencing (counseling, probation and community service).

*(Children in Conflict with Law, Child protection information sheet; [www.unicef.org](http://www.unicef.org))  
(Defence for Children International, 'No kids behind Bars: A global campaign on justice for children in conflict with the law', [www.kidsbehindbars.org](http://www.kidsbehindbars.org))*

### **Introduction to mental health problems in children in conflict with the law**

- Children in conflict with the law have a higher prevalence of mental health disorders than the general population (Otto, R 1992)
- Studies from the West show prevalence rates ranging from 60-70% (Otto, R 1992; Skowrya, KR 2006)
- Many have more than one co-occurring mental health/substance use disorders
- Children in conflict with the law may have mental health problems that precede their entry into the juvenile justice system or may develop them subsequently
- They experience the full range of emotional and behavioural disorders including ADHD, Conduct disorder, depression, anxiety disorders, substance use disorders, PTSD

*(National Mental Health Association, Prevalence of Mental Disorders Among Children in the Juvenile Justice System, (Alexandria, Va.: NMHA, 2006), 2. 2006)*

*(National Institute of Justice, 2000 Annual Report on Drug Use Among Adult and Juvenile Arrestees, Arrestees Drug Abuse Monitoring Program (ADAM) (Washington, D.C.: NIJ, April 2003), 133-134)*

***Why must we screen and treat children with mental health problems who come into conflict with the law?***

- Legal redressal occurs in the present system but psychosociolegal redressal must be our goal as suggested in the Individual Care Plans in the Juvenile Justice Care and Protection Act,2000
- Children with unaddressed mental health needs may continue towards the path of adult criminality
- Recidivism rates among those who received treatment are as much as 25 percent lower than the rates of those children and teens in untreated control groups (Gendreau, P., & Goggin, C. 1996)
- Screening and assessment are key to addressing mental health treatment needs of children and adolescents in the juvenile justice system
- Access to mental health services after bail is an important part of a comprehensive approach to addressing mental health needs of juvenile offenders. Without ongoing treatment, many children are more vulnerable to behaviors that prompt their return to the system
- Families and caregivers must be part of the treatment in order to address the risk factors that brought the child in conflict with the law

*(Mental Health Treatment for Youth in the Juvenile Justice System a Compendium of Promising Practices, National Mental Health Association, 2004)*

*(Hammond, S. Mental Health Needs of Juvenile Offenders, National Conference of State Legislatures, 2007)*

**The adolescent brain and substance use disorders in children in conflict with the law**

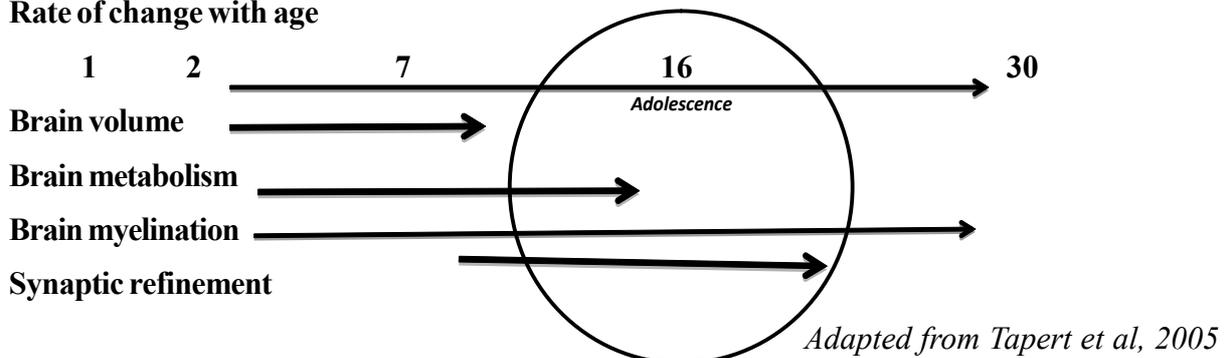
Outline / Questions to consider:

- How is the adolescent brain different from the adult brain?
- What is addiction? What factors increase the risk of addiction to drugs?
- How do substances of abuse or drugs affect the adolescent's brain? Is it the same as in adults?
- Can we look at ways to change drug use differently?

**How is adolescent brain different from the adult brain?**

Generate a discussion. If the participants do not raise the issue, ask whether the audience thinks if brain development is complete by 16 years. Then show the next slide.

**Rate of change with age**



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While brain size is complete by upto 90% by age 6, other processes which are significantly important to allow development into the adult brain start later and can continue even beyond the age range termed as adolescence.

Therefore, the adolescent brain is still developing while physical signs of maturity and sexuality develop earlier.

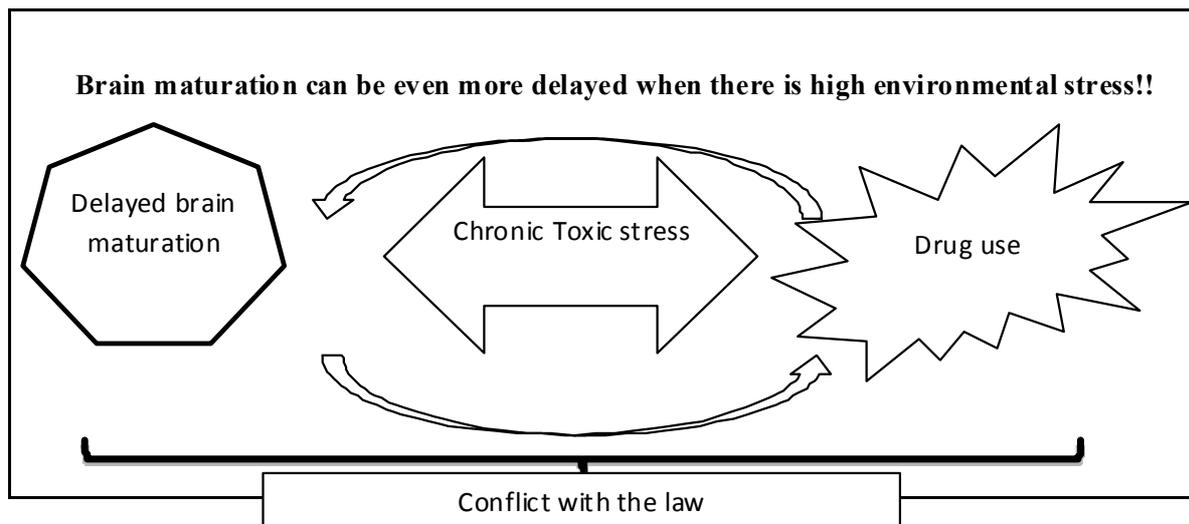
- All areas of the adolescent brain do not develop at the same speed
  - 2 such processes are:
    - Synaptic pruning
    - Myelination
  - In synaptic pruning, connections in some brain pathways are strengthened while others are reduced
  - Myelination increases the speed at which nerves conduct impulses
  - Certain areas which govern emotional responses and which drive the desire to seek new experiences are better developed
  - The pathways that regulate planning and delaying these responses takes more time to be myelinated
- Planning
- Emotion regulation
- Impulsivity
- Novelty-seeking

The stage of development naturally predisposes adolescents to try more risky behaviours and make decisions based on short-term rather than long-term consequences. Note however that this does change over time.

- Hence, compared to adults, adolescents are ‘wired’ to,
  - Make impulsive decisions
  - Try new experiences
  - Regulate emotional reactions less effectively
- Additionally,
  - Some children are more vulnerable than other children
  - This vulnerability can be enhanced by the person’s environment

### **Effects of drugs on the brain**

Adolescents seem to be at higher risk than adults as their brains are still developing. Some adolescents are at an even higher risk when they have a high family history of alcohol or drug use disorders.



The brain changes that drug use initiates can delay normal brain maturation and serve as biological stress by itself. Drug use during childhood or adolescence can cause individuals to,

- lose opportunities to learn positive ways of handling stress, and
- lose out on the chance to develop a group of peers who do not use drugs.

Coming into conflict with the law can serve as stress.

**Other disposing factors can be:**

- Loss of supports such as loss of family support, loss of normal peer groups, bullying and exploitation from older adults and children, stress of living in a juvenile home, physical or sexual abuse
- Physical factors such as poor nutrition, lack of shelter (in street children)
- Mental factors such as potential schooling and / or learning difficulties, mental disorders, temperamental difficulties and faulty ways of reacting to stress

Certain children are at higher risk than others, and levels of impulsivity and poor planning can vary among adolescents. The risk factors for drug abuse are also risk factors for other risky behaviours such as risky sexual activity, speeding on a motorbike (with or without a license) and the tendency to commit impulsive acts that can bring them into conflict with the law.

*Can we look at ways to change drug use differently?*

Saying 'NO' to drugs do not actually help

### Important to remember

- Identifying drug use and high risk adolescents is very important!!!
- Preventing this with hazardous use transitioning into harmful use or even addiction is crucial
- **LIFE-SKILLS APPROACHES** can have a powerful effect on factors underlying drug use, as well as other problem areas
- Adolescents with severe disorders and/ or harms need help → early referral would be necessary. **TREATMENT IS AVAILABLE, AND CRITICAL!!!**
- Co-morbid psychiatric disorders need to be addressed as early as possible
- Developing goals/ projects and ‘positive addictions’ is crucial
- Care-giving can make a difference! Foster independence and set limits.

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### HOW TO MAKE A CARE PLAN...

*(Ask every adolescent about substance use. Asking works!)*

YES	NO
<ul style="list-style-type: none"> <li>➤ Ask about details, especially last use and amount Check for physical harms. Plan a urine test if available.</li> <li>➤ Refer to a mental health professional to assess severity and look for other psychiatric illnesses. Make a plan with them to address these risks</li> <li>➤ Assess life skills, plan for areas that need improvement</li> <li>➤ Set short and long term goals with the adolescent</li> <li>➤ Discuss dangers of drug use and how to seek help if in trouble</li> <li>➤ Screen for other health risks, including STDs</li> <li>➤ Involve carers early</li> </ul>	<ul style="list-style-type: none"> <li>➤ Appreciate the decision to have not tried drugs</li> <li>➤ Assess for physical and mental health problems</li> <li>➤ Consider urine screening for drugs if warning signs are present</li> <li>➤ Discuss risky behaviour and risks</li> <li>➤ Focus on life skills, life goals and ‘positive addictions’</li> </ul>

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Positive addictions are habits and activities that make the brain feel rewarded but without the toxic effects of drugs. Some examples are exercise, hobbies and adventure sports. They reduce risk of using drugs by rewarding the brain, as well as reducing boredom. They also help invoke a sense of achievement in adolescents.

Drug screens are tests that help detect drug use. The most easily performed tests are on urine. They are helpful in detecting unrevealed drug use, but they must be used carefully. Interpretation must always be done by a specialist as some false positives may occur. They are not widely available. The most useful circumstance to use them is when both adolescent and carer, if present, agree to the test to monitor drug use over time. If it comes as positive, the important thing to remember is to treat the result as an opportunity to make a better plan to avoid future drug use, rather than see it as a failure of treatment. Remember, risk for use may not disappear just because someone has stopped using drugs for some time!

### **Glossary:**

Child	a person who has not completed eighteen years of age
Child in conflict with the law	a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such an offence
Emotional regulation	the ability to handle one's emotional state (which would include the ability to soothe oneself when upset or calm down after getting angry) and formulate an appropriate behavioural response to a situation
Externalising disorders	
Impulsivity	acting without fully considering the consequences of the action
Myelination	the process by which certain parts of a nerve cell is covered by a myelin sheath, allowing it to transmit signals down the neuron faster
Novelty-seeking	the tendency to seek out new experiences
PO	Probation Officer
Synapse	an anatomical structure which allows one nerve cell or neuron to communicate with a second neuron, by converting an electric impulse into a chemical signal and back again
Temperament	Individual characteristics that are assumed to have a biological basis and that determine the individual's affective, attentional and motor responses in various situations

### **Summing up and feedback**

The key messages are summed up as under:

- Children in conflict with the law are a vulnerable population
- Adolescence is an especially vulnerable age group as decision making, planning, understanding consequences are not fully developed.
- Substances of abuse in an adolescent can make a bad situation worse by affecting judgment, planning and decision making further
- Children in conflict with the law come from backgrounds of significant abuse and neglect
- All children must receive physical and mental health screening
- If the child has mental health problems that precede entry into the system, has undergone severe trauma, has problems in the observation home, he/she needs a psychiatric assessment and management
- All children in conflict with the law need individual therapy to deal with their problems
- Interventions significantly reduce recidivism

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**MODULE FOR TRAINING OF LEGAL SERVICES LAWYERS AND PROBATION OFFICERS ATTACHED TO THE JUVENILE JUSTICE BOARDS ON THE ISSUE OF DRUG ADDICTION IN CHILDREN IN CONFLICT WITH LAW UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

– Justice Manju Goel (Retd.)\*

– Dr. Rajesh Kumar\*\*

– With inputs from Dr. Shekhar P Seshadri\*\*\*

**SESSION PLAN**

**Objective**

1. The objective is to inform the Probation Officer about types of drugs and their impact on people generally and children in particular.
2. To inform the Probation Officers as to the various reasons leading people to take drugs.
3. To inform the Probation Officers about various methods to manage children with drug addiction.

**Expected learning outcome**

1. The Probation Officer will identify which of the children referred to them maybe addicted to drugs.
2. The Probation Officer will be able to identify whether the delinquency has any connection with drugs.
3. Probation Officer will be able to assist the Juvenile Justice Boards in preparing an Individual Care Plan for rehabilitation and social integration of the child victim of drug abuse in conflict with law.

**Programme**

- |  |            |
|--|------------|
| <b>1. Introduction</b>   | 10 minutes |
| Resource persons will introduce the topic with specific reference as to why this topic has been included in the programme of Probation Officer and explaining of problem generally in the country and particularly in the reasons in which the Probation Officers are working. |            |
| <b>2. Activity- 1 Exercise on facts about Drugs</b>  | 15 minutes |
| <b>3. Activity-2 Questionnaires for brain storming</b>   | 15 minutes |
| <b>4. Lecture with or without power point presentation</b>   | 25 minutes |
| <b>5. Concluding remarks</b>   | 10 minutes |
| <i>(By one of the participants)</i>  |            |

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\* Former Judge, High Court of Delhi

\*\* Executive Director, Society for Promotion of Youth and Masses (SPYM)

\*\*\* Professor and HOD, Department of Child and Adolescent Psychiatry in NIMHANS

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**Tools required**

1. Flip chart
2. Blue tack
3. Facility to display Power Point
4. Marker pens

**NOTE:** The resource person will keep the handouts of activity sheets and factsheets ready for distribution at appropriate time.

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## Activity 1: Facts about Drugs

### Activity 1

#### Facts about Drugs

##### Purpose

To improve knowledge about the effects of drugs and the physical risks involved.

Ask the participants the following questions

1. Do you know the official or street name of any of the drugs.

The resource person will write out the names of the drugs given by the participants in a flip chart paper and fix it on the wall/board with blue tack.

Ask the participants the following question

2. What is the effect of each drug?

The resource person shall write the answers given against each drug on the list already put up.

The resource person will now distribute the fact sheets giving the effect of each drug for the participants to verify whether they were correct.

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## Activity 2

### Whole Group Exercise

The resource person will put the questions to the whole group of participants and take the answers from some volunteers and write them on the flipchart. The resource person will refer to these answers during the lecture. Then give the full information if necessary.

1. What are the immediate physical and behavioural symptoms to look out?
2. How can a Probation Officer make a child talk about his/her use of drugs?
3. How should a Probation Officer handle or control a juvenile who is undergoing a strong urge for drug use at a particular point of time?
4. How should a Probation Officer handle a child drug user?
5. Should the child be sent to a de-addiction centre the moment the Probation Officer knows a child is a drug user?
6. What are the follow up programs a Probation Officer should undertake after the child is released from de-addiction?

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**SHORT NOTE ON**  
**THE ISSUE OF DRUG ADDICTION IN CHILDREN IN CONFLICT WITH LAW**

*– Justice Manju Goel (Retd.)\**

*– Dr. Rajesh Kumar \*\**

*– With inputs from Dr. Shekhar P Seshadri \*\*\**

**Introduction**

It is important for a Probation Officer to have some basic knowledge about various types of drugs, their effects, the use of these drugs by children, the consequences of drug abuse as well as treatment for drug abuse. 60% of children who are into crimes are there because of drug use. In order to fulfil the urge of drug use, they take to crime to earn fast money for procuring drugs. Those who become dependent on drugs are naturally children in need of care and protection. If they are not cared for in the appropriate time they drift towards crime and they become children in conflict with law. The Probation Officer has to take the child as innocent and also as victim rather than an offender. Unfortunately, sometimes the crimes committed by children dependent on drugs are heinous crimes like murder or robbery. However, the Probation Officer has to go into the life story of the child in conflict with law and discover why the child got into drugs and how the crime was committed. This is absolutely necessary because unless all these factors are known the Individual Care Plan for reintegration and rehabilitation will not be possible to make. The report of the Social Investigation Report will show what the predisposing factors were and what the precipitating factors were. If the Probation Officer can identify the risk factors and protective factors for the child the Juvenile Justice Board will be able to draw up a plan for his de-addiction as well for his rehabilitation.

**Drugs, Children and Crime**

There is a close link between the drugs, crime and the children. Drug particularly those which are illegal or contraband give rise to crime in various ways. In the first place since it is illegal to sell, buy or possess these drugs, anyone handling these drugs is an offender under one section or another of one act or the other. Now, when children take to drugs for any reason they become offender because they possess the drugs. Secondly the children are employed to peddle small quantities of drugs or even to carry the same from one place to another.

Children often go unsuspected and therefore they are good carriers of drugs. They do this innocently with the hope of earning money not knowing that the offence they are committing can lodge them in jail for ten years. Often the drug mafia and small drug pedlars give small quantities of drug to the children and the children in course of time become addicted to drugs. This makes the work of drug pedlars easy because these children are more than willing to do their job in lieu of drugs. The demand for more money drives them to other kinds of offences. When the money in their hand is not enough, they try to rob people in the street or the shops and even burgle houses. Lastly such children are often sexually and physically abused by persons who can lure them with availability of drugs.

**Case Study- 1**

Arpit (name changed) reported that, “my addiction to drugs has made me witness so many different negative facets of life, that it would be quite convenient on my part to say that I am more or less numb to physical or emotional stress. I dropped out of school, succumbed to peer pressure and

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got accustomed to drugs like cannabis and unrefined heroin (smack). It is not something I couldn't resist earlier, but still I wanted to explore this new found interest of my peers. The more I used substances, the more I enjoyed being under the influence. What started as 50 rupees a day expense on cigarettes and cannabis ended up as me spending 5000 rupees a day on drugs like smack. This was not suitable with my father's income so obviously I had to look for alternatives. So I began the routine of getting involved in con jobs and robberies around Delhi with my gang of friends. We just chose a random house and rolled the die. If we were lucky we rolled in millions. If not, then the next day outlived our expectations. Heavily under the influence of heroin and in a fit of rage I stabbed a guy twice and killed him one evening. The mind constantly looks for more novelty. I guess that's why my addiction grew from bad to worse."

*(Source: Substance Abuse by Children in Delhi, by Dr. Sartita Sarangi published by Delhi Commission for Protection of Child Rights.)*

### **Reasons for taking Drugs: -**

Drugs, unless used for therapeutic purpose have no beneficial effect. The question that bothers us is why then people take drugs. Some of the reasons are enumerated below.

Many people take to drugs because they want to change how they are feeling. The drugs are known to relieve pain (Eg. Caused by disease or fatigue), give pleasurable effects, give new sensory and perceptual experiences, and to enhance feelings of self-esteem through a drugs high'.

Another reason for taking drugs is the influence of various sources like easy accessibility, advertising for legal drugs, poverty, lack of facilities, frustration, peer group pressure and cultural and religious norms. The way the children are brought up can be yet another reason. Experience in the family, treatment of the child by other family members can lead to drugs. Still other factors are curiosity, desire for thrills or independence, rebellion against establishment and even to hurt himself.

### **Physical and behavioural symptoms of use of drugs:**

Early drug users seldom betray any sign of drug use. If the Probation Officer or the doctor has the training and sensitivity to develop a rapport with the child, he/she might confide in the officer or the doctor and disclose facts of drug use. If the drug use persists, there maybe apparent physical symptoms which may appear. Such symptoms are warning signs in adolescents. Such symptoms are:

- a. Sudden changes in behaviour and/ or aggression. Acting withdrawn, frequently tired or depressed, or hostile. Finding drugs or residue of drugs on them or in their clothes
- b. Changes in peer groups and/ or deteriorating relationships with family members and friends
- c. Carelessness with grooming and changes in eating or sleeping habits
- d. Decline in academic performance / missing classes or skipping school. Trouble in school or with the law
- e. Loss of interest in favourite activities
- f. Unusual smells, stains on clothes, stains on teeth, needle marks, nosebleeds, seizures
- g. Shakes, tremors, incoherent or slurred speech, impaired or unstable coordination
- h. Chronic cough
- g. Pupillary dilation
- h. Agitation

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## **Task of the Probation Officer**

In Social Investigation the Probation Officer can identify the risk factors and protective factors for the children who are vulnerable to substance use. The risk factors, as is commonly known, are availability and accessibility of drugs, peer group, culture, adverse examples in the family and the desire to get away from the stress and experience the euphoria which some of these drugs do result in. Therefore, the Social Investigation should try to locate the peer group of the child using drugs including alcohol and tobacco. Most of the children may not start with serious psychotropic drugs or narcotic drugs. As per the UN survey most children start with tobacco or gutka and move on to liquor and then to other substances. The Social Investigation, therefore, has to identify whether there is accessibility to drugs and whether the child is under some kind of pressure to use these drugs on account of peer culture or on account of his/her personal circumstances. So far as the protective factors are concerned, the most important one is a stable relationship with an adult who himself is not a user of drugs. The children also value the opinions and reinforcements from families which are consistent. Availability of life skill training is also a protective factor. The school and the teachers may also provide the protective factors.

## **Risk factors and effect of drugs**

*The major risk factors are:*

- Early use of drugs
- Family history of drug use
- Externalising disorders, i.e. conduct symptoms, children with ADHD, refusal to obey carers, etc.
- Psychiatric disorders, such as anxiety disorders, mood disorders, psychosis, etc.
- Chronic/ toxic stress
- Easy availability/ easy access to substances of abuse

The earlier the experimentation with drugs by children, the more the chances of harmful use and later addiction. Delaying use to as late an age as possible lessens the risk. Family history of drug use increases the individual vulnerability of the child to have a more serious drug use disorder, especially when the family member is a first degree relative (mother, father, sibling), due to shared genetic factors. Externalising disorders and psychiatric disorders all increase the risk of drug use. Chronic or toxic stress refers to a distressing situation e.g. sexual or physical abuse, extreme poverty and deprivation which can cause significant distress to the child. Even poor nutrition and higher exposure to certain specific environmental pollutants such as lead can lead to significant delays in brain development and keep people at risk. Interventions combined with certain factors that promote resilience in a child or adolescent can alter the final outcome.

Addiction, or dependence, criteria may need some more explanation. Craving is a strong urge to use a drug so intense that it can be difficult to think of anything else, or to resist the urge. Tolerance occurs when persons require an increased amount of drugs to experience the same drug effects, or would get a lesser response from the same amount of drugs that they were previously using. Withdrawal occurs when a person gets specific withdrawal symptoms if they stop - or even if they reduce - the usual dose of drugs that they use. Loss of control occurs when persons cannot control the quantity of drugs they use on a particular occasion, or when they use drugs even when they explicitly plan not to use them. Salience occurs when other activities such as recreation, interpersonal responsibilities, school activities or work activities are given less importance than using - or recovering from using - drugs.

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## **Need for intervention**

Intervention is called for at any stage be it hazardous use, harmful use or addiction/dependence. Example of Hazardous would be binge drinking or drinking and driving when harm has not occurred but the risk is high.

Harmful use would be when harm, such as alcohol induced gastritis or cannabis related worsening of psychotic illness, has occurred, but addiction criteria are not met. In addition to harmful use, there are 5 other criteria for addiction. At least 3 must be fulfilled over a period of time for at least 1 year to merit a diagnosis of addiction. While harmful use or hazardous use may not require as intense an intervention as addiction would, the idea would be to prevent the individual to transition from a less harmful pattern of use to a more harmful one.

Most adolescents may not come with addiction, but some would. All types of use require an intervention, but those with addiction would require referral to a psychiatrist for assessment.

Drugs can also be classified as legal (alcohol/ tobacco/ coffee/ tea), illegal (cannabis or heroin or cocaine) or prescription drugs (which are legitimate medications which can be misused such as certain opioids, like tramadol, which are painkillers and certain benzodiazepines, like diazepam and alprazolam, which are sedatives). The brain depressants sedate, or 'put to sleep', different areas of the brain at different dosages. At lower doses, areas of the brain that control anxiety are put to sleep, which make people behave more boldly or feel less nervous. At higher doses, important brain functions like speech and control of movements are affected. At very high doses, persons may fall unconsciousness and may even stop breathing, which are signs of overdose.

The changes caused by drugs of abuse are more prolonged in adolescents' brain than adults. Even adolescents with high risk (more than 2 close family members with drug or alcohol dependence) react differently than adolescents with low risk (no family history)!! High risk individuals' brains show earlier and more prolonged changes in brain activity when they use alcohol. High risk individuals seem to be less aware of intoxication than low risk individuals. High risk individuals seem to have delayed myelination, compared to low risk individuals.

## **De-addiction and the role of a Probation Officer**

Although the Probation Officer should have the basic knowledge about the drug or the basic use of drug and its impact on the mental and physical health of the child and the risk factors as well as the propensity of children in drugs drifting towards crime, the Probation Officer can handle, perhaps, only those who are at early stages of abuse but have not become addicts. In any case it is best to refer the child in drug use to a de-addiction centre. The Probation Officer may counsel an addicted child and if the child has a strong urge for drug at some point of time and may try to calm him down by giving him a shower. However, for withdrawal symptom management the child urgently needs to be referred to a de-addiction centre.

De-addiction is the best left to the professionals. The Probation Officer may build a rapport with the child and make him to use see the negative aspects of drug use while simultaneously providing him opportunities for activities which may bring enjoyment and satisfaction to the child and divert him from use of drugs. Activities like sport reduce the urge of using by rewarding the brain as well as by reducing boredom. This also invokes a sense of achievement in the adolescent.

The process often begins with detoxification and relapse prevention. Easing withdrawal symptoms can be important in the initiation of treatment. Preventing relapse is necessary for maintaining its effect. A continuum of care that includes customised care regime addressing all aspects of individual life including medical and mental health services and follow up options can be crucial to a person's

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success and maintaining a drug free lifestyle. The Probation Officer is not expected to enter the area of detoxification and curing the addiction or doing anything which a professional in the area of mental health can be asked to do. De-addiction is an area of professional competence and no Probation Officer is expected to enter into the area. Nonetheless as stated earlier the Probation Officer must not ignore the drug abuse by any child in his care and should not feel hesitant to report that the child has been known to use or abuse drugs.

An extract from the paper Substance Abuse by Children in Delhi, by Dr. Sartita Sarangi published by Delhi Commission for Protection of Child Rights gives an overview of different aspects of substance abuse among children in Delhi and the way to manage them. Although the study is based on children in Delhi, recommendatory aspects of this paper are valuable for anybody dealing with substance abuse by any child in this country. The same is annexed to this paper.

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## Fact Sheet— Tobacco

The Main Method of Use is by smoking cigarettes, cigars or pipe.

### Effects:

Tobacco smoke consists of droplets of tar, nicotine, carbon monoxide and other gases. Nicotine is the drug in tobacco which causes dependence and that affects the heart, blood vessels, digestive tract, kidneys and the central nervous system. First time users often feel sick and dizzy.

Many people who smoke regularly say they find it relaxing and yet stimulating at the same time, and experience great satisfaction on inhaling. The effect of nicotine lasts for only 30 minutes to an hour.

People who begin to smoke tend to increase their consumption until they smoke regularly. There is high risk of dependence both physical and psychological.

### Specific Physical Risks:

The more you smoke the more you are likely to suffer from heart disease, blood clots, heart attacks, lung infections, strokes, impotence and sterility, bronchitis, bad circulation, lung cancer, cancer of mouth and throat, and peptic ulcers. Women who smoke during pregnancy tend to have smaller babies and run a greater risk of losing the baby around the time of birth,

### Withdrawal Symptoms:

If people stop, they may feel restless, irritable and depressed, craving for another cigarette, and suffer from insomnia.

### Signs of Use:

Cigarettes, pipes, smoke! People with chronic coughs (bronchitis), yellow nicotine stain on fingers.

## Fact Sheet— Volatile Solvents (Inhalants)

**Main methods of use** include sniffing glue from bags, sniffing solvents from containers and aerosols sprayed in mouth.

**Effects** include an initial intoxicating ‘rush’ followed by alcohol like sedating effect, initial effects also include nausea, sneezing, coughing, nosebleeds and dizziness.

There is medium chance of dependence (psychological) and little if any physical dependence. Tolerance likely to develop.

### Specific physical risks:

- High concentration of inhalants can cause death due to heart failure or suffocation
- Accidents e.g. Head injury
- Repeated sniffing causes weight loss, fatigue followed by permanent damage to the nervous system
- Brain damage, seizure, coma

There are minimum withdrawal symptoms. Signs of use are bags, rags or containers held to mouth, people acting ‘drunk’ but more suddenly for a shorter time and bad breath. Examples of inhalants include model aeroplane glue, nail polish remover, cleaning fluids, gasoline and petrol, paints and hair spray

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## Fact Sheet—Tranquillisers

The **main methods of use** are swallowing capsules and tablets and injecting intramuscularly or intravenously.

### Effects

The effects of tranquillisers are varied. At normal doses, there is sedation with impairment of memory, anxiety is reduced and sleep facilitated. With higher doses, there is increasing impairment of consciousness, thought and speech are slowed down and muscle coordination impaired, resulting in slurred speech, clumsy movements and unsteady gait. At even higher doses some types (especially barbiturates) can cause coma and death.

There is medium chance of dependence (psychological and physical). There is trend of increasing tolerance so people increase the dose and increase the risk of dependence.

**Specific physical risks** include poor coordination, accidents (head injury, motor vehicle accidents), death following an overdose with barbiturates and anxiety disorders e.g. agoraphobia—fear of open spaces.

**Withdrawal symptoms** include being unable to cope ‘without a pill’, insomnia, anxiety, nausea, vomiting, tremors. Abrupt stopping of these drugs may cause severe fits, disorientation, hallucinations, coma and even death

**Signs of Use** are drowsiness, lack of emotions and loss of interest and slurred speech.

## Fact Sheet—Amphetamines

The main method of use includes tablets that are swallowed, powder dissolved in water and injected, sniffing and smoking

### Effects:

- Arouse and activate the user
- Faster breathing and heart rate
- Feeling more alert, energetic, confident and cheerful, and less bored and tired.
- Some people may experience feelings of anxieties, irritability, and restlessness
- High doses can produce delirium, panic, hallucinations and feelings of persecution
- They do not improve intelligence

### Likelihood of Dependence:

- Medium chance of physical dependence. High risk of psychological dependence because of its effects
- Marked tolerance present

High doses can cause a temporary psychosis with paranoid feelings, active hallucinations and irrational behavior.

**Withdrawal Symptoms** include period of prolonged sleep with extreme lethargy. This is followed upon waking by ravenous hunger and irritability. Then there is a period of apathy and depression.

**Signs of Use** include person being highly active when using; quiet and depressed afterwards as well as dilated pupils.

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Over dosage with amphetamine is uncommon but when it occurs, it can present with severe convulsions (fits), strokes and heart failure.

### **Fact Sheet— Heroin**

The main method of use is dissolving in water and injected under skin or into a vein. It can also be sniffed or smoked. Intravenous injection maximises the effect.

#### **Effects:**

A large proportion of people report the initial heroin experience as drowsiness, warmth, wellbeing and contentment.

Euphoria is associated with heroin as it induces relaxed detachment from the impact of pain and anxiety and from desires for food, sex, etc. There is a sense of being ‘wrapped up in cotton wool’.

First use (especially injection) is often accompanied by nausea and vomiting.

#### **Likelihood of Dependence:**

Psychological dependence—moderate/ marked. Physical dependence—marked. Tolerance develops so someone in search of euphoria must increase the dose.

#### **Specific Physical Risks:**

- Repeated heroin sniffing may cause nasal damage.
- Reduced appetite and apathy contribute to disease caused by poor nutrition and self-neglect.
- Death from overdose as a result of respiratory depression (stops breathing).
- Overdoses often happen when users take their usual dose after a break during which their tolerance has faded.

Physical damage associated with repeated, often unhygienic injecting and with the injection of adulterants, is common amongst those dependent on the drug. This may cause AIDS, liver, heart and lung disorders.

**Withdrawal Symptoms** include flu—aches, tremors, sweating and chills, sneezing and yawning, muscular spasms. These will fade but feelings of weakness and loss of wellbeing last for several months. Withdrawal only mild, rarely requires medication.

**Signs of use** include sharp smell when heated (called ‘chasing’), burnt foil and matches left behind, spoons, syringes used by injectors and ‘Nodding off’ and constricted pupils.

### **Fact Sheet— Cannabis (Marijuana)**

**Main uses** are smoking or cooking in food and ingesting.

The **effects** of cannabis in low doses its effects are similar to alcohol. However, in higher doses the drug is a hallucinogen.

**Likelihood of dependence** is mild, with immediate psychological dependence. There is however little, if any, physical dependence. Tolerance is present when high doses are taken

With regard to **specific Physical Risks**, chronic abuse leads to greater risks of lung infection, lung and throat cancer. Poor social judgement, poor concentration, poor attention span, poor short term memory, paranoid ideas and depression are also common.

**Signs of Use** include reddening of eyes, tobacco like material, which is rolled into filtered cigarettes—joints and cannabis sativa plant.

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## Fact Sheet— Cocaine

The Main method of use is sniffing or snorting the powder up the nose. It may also be dissolved and injected intravenously or may be smoked in the form of ‘crack cocaine’.

### Effects

Physiologically aroused and alertness, accompanied by euphoria, decrease in hunger, indifference to pain and fatigue and feelings of great physical strength and mental capacity.

Effect is short-lived and may have to be repeated every 20 minutes to maintain the effect. A ‘run’ of quickly repeated doses can lead to bizarre, erratic and violent behaviour, characterised by agitation and anxiety and perhaps hallucination. Chronic frequent use can lead to unpleasant symptoms such as nausea, insomnia, weight loss and a similar state of mind to paranoid psychosis.

### Likelihood of Dependence:

Medium when sniffed or injected. High when smoked. May develop strong psychological dependence or grandiose feelings of physical and mental wellbeing and often tempted to step up the dose. There is no physical dependence or tolerance with repeated use.

### Specific physical risks

Acute paranoid psychosis,

Infection if injected via dirty syringe,

Can cause death from respiratory or heart failure,

Repeated sniffing damages the membranes lining the nose and may also damage the structure separating the nostrils.

Rapid and dramatic increase in blood pressure may result in strokes and seizures, coma.

**Withdrawal Symptoms** has been demonstrated in regular users with depression and lethargy. Some tolerance may occur. In some individuals, a reverse tolerance may occur where they are more sensitive to smaller doses with repeated use However, symptoms are only mild

**Signs of Use:** users may carry mirror and razor blade to cut the powder finely. Alert when using, may be quiet, depressed later. Pupillary dilatation, agitations are also common.

## Fact Sheet— Hallucinogens (e.g. LSD)

The **main methods of use** are swallowing as tablets or capsules, absorbing on paper, gelatine sheets or sugar cubes and then swallowing or absorbing through the skin or by eating (e.g. magic mushrooms)

### Effects:

- Visual effects such as intensified colours, distorted shapes and sizes and movement of stationary objects.
- Distortions in hearing and sense of time and place occur
- Heightened self-awareness and mystical or ecstatic experiences.
- Feelings of disassociation from the body are common
- Can have ‘good’ or ‘bad’ trips, often dependent on the person’s mood

There is no physical dependence.

**Specific Physical Risks** include psychological problems include anxiety and in some cases serious adverse reactions, feelings of disorientation and distress can occur and accidents like self-mutilation are secondary to hallucinations and ‘flashback’.

**Withdrawal symptoms** are mild, although ‘Flashbacks’ may occur sometime after stopping use.

**Signs of Use** include bizarre behaviour and appearing retarded— this is because the person may be hallucinating.

**MODULE FOR TRAINING OF PROBATION OFFICERS AND LEGAL SERVICES  
LAWYERS ATTACHED TO THE JUVENILE JUSTICE BOARDS ON  
COMMUNICATION SKILLS MODULE FOR JUVENILE JUSTICE BOARD  
OFFICIALS UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF  
CHILDREN) ACT 2015**

— Dr Sanjeev Kumar\*

**SESSION PLAN**

**Objectives**

1. To explain the importance of communication skill in the work of an investigator/interviewer
2. To explain how use of appropriate use of communication skills results in obtaining true and correct information from the respondents
3. To demonstrate the appropriate strategy to communicate with people in different situations
4. To demonstrate different skills and strategies which may be employed by the probation officer in discharging his/her duty.
5. To demonstrate how to communicate with children of various mental makeup and maturity so as to help them in opening up and speaking
6. To define communication competence and explain its qualities identified as part of competence
7. To apply specific communication tools and techniques to enhance performance

**Expected learning outcomes**

1. The participants will be able to realize and appreciate the sensitivity needed in communicating with children in conflict with law and children in need of care and protection.
2. The participants will be able to obtain the necessary information from various sources that they are required to give in social investigation report in assisting the Juvenile Justice Boards.
3. The participants will be able to balance between their role as a friend of the child and that as an officer of the court.

**Session time break up**

Session	Topic	Time	
<b>Session 1: Introduction</b>	Introduction - What is communication?	10	
	Communication model and elements	10	
	Effective communication and Barriers to effective communication	10	30
<b>Session 2: Communication Skills</b>	Verbal and Non verbal	10	
	Listening/Empathy	10	
	Asking/Telling	10	
	Observation- Body Language	10	
	Persuasion	10	
	Appreciation	10	
	Dealing with difficult people/situations	10	
	Writing/Documentation Skills	10	
	Recap/Q & A	10	90

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### **Suggested Methodology**

1. Lecture with/without Power point
2. skit
3. role play
4. film clips
5. group work

### **Tools required**

1. LCD projector with sound lead and sound speakers
2. White board with white board markers
3. Chart papers with sketch pens or permanent markers
4. Film clips – Munna Bhai (Jhappi), Taare Zameen par (meeting the parents), PK (Achha!)
5. PPTs/Role play/Case studies

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**SHORT NOTE ON  
COMMUNICATION SKILLS MODULE FOR JUVENILE JUSTICE BOARD  
OFFICIALS  
UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)  
ACT 2015**

- Dr Sanjeev Kumar\*

### **1.0 Introduction**

Communication plays a very important role in the job and task of the JJB officials. At its simplest, the ability to communicate can simply be seen as the ability to convince other people more quickly, so that they fall in with your own plans as quickly as possible. Other people have some idea that communication is a two-way process which involves listening as well as talking - but do not understand the full implications of listening. The most powerful communicators know that the process might result in a wholesale change in their own thinking and plans. Communication is an instrument for partnership and participation based on a two-way dialogue, where senders and receivers of information interact on an equal footing leading to interchange and mutual discovery. Communication is pivotal in the development process because it caters to the human dimension.

Communication involves looking at situations from the viewpoint of other people, and understanding what they are looking for. It means understanding obstacles to change. It means presenting relevant and practical options, and it means telling people what the effect is of the choices they make.

The skills and knowledge required to supervise adult offenders on probation are completely different from the skills and understanding required for supervising juveniles in conflict with law<sup>1</sup>. A.E. Jones in 'Juvenile Delinquency & the Law' (1945) succinctly defined the role of a Probation Officer in regard to juveniles thus:-

“.....the relationship between the probation officer and the probationer will have little value if it is regarded as a matter of carrying out the terms of a contract for a certain period...

The essential power of the probation officer is in his personality; if he can inspire devotion in his charge; if the probationer becomes filled with a genuine desire to gain his approval; if the parents accept him unreservedly as a wise friend of the family and profit by his suggestions on the upbringing of their offspring; if the probationer does not look on him as a sort of policeman whose watchfulness it is almost a point of honour to cheat; then the probation officer may hope for a true success.....the probation officer can only cure delinquency by effecting a change of heart either in the child or the parent.”

### **1.1 What is communication?**

**EXERCISE:** Ask participants to brainstorm about the meaning of “communication.” *Communication is a process by which information, ideas, and/or feelings are exchanged between individuals.*

#### **Definition and Purpose of Communication**

**Definition:** Communication is a process of exchange/transfer of information (including ideas, emotions, knowledge, data and skills etc.) from one person or persons to another or others. Communication is a fact of everyday life. Every day, we perform activities of listening, speaking, reading or writing or take recourse to facial expressions, gestures, movements of hand and arms, body movements and feelings. Spoken words are the most important means of communication. We call it as “verbal communication”.

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\* Senior Consultant and Guest Faculty, Indian Institute of Mass Communication.

<sup>1</sup> Juvenile Justice System, Working Manual for Stakeholders, UNICEF and Legal Assistance Forum

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We also communicate to others through eyes, gestures and body movements which is often described as “non-verbal communication”.

**Purpose:** It aims at changing the behaviour of people; promoting and adopting behavior which will improve or maintain health and discontinue behaviour that is deleterious to health.

### Defining communications

If you search Google for “communications,” you get everything from telecommunications to couples counselling. If you look in the dictionary, you’ll find several definitions, including “the art and technique of using words effectively to impart information or ideas”. That’s close. But the truth is that everything you do – or don’t do – communicates a message to your audience, whether it’s those you serve, your volunteers, donors, staff, the media or the government.

### 1.2 Communication Model and elements

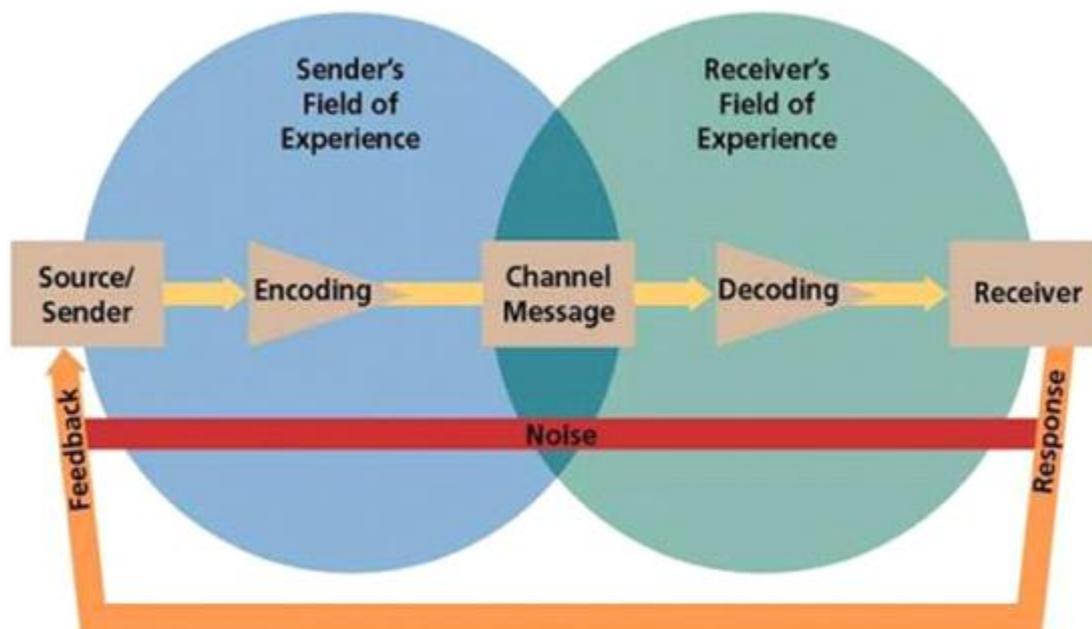
Communication can be a one way process and a two way communication. Let us first understand this difference.

**One-way communication process:** When information flows in one direction it is known as one-way communication. In this communication process, information flows from sender to receiver and receiver does not send any feedback to the sender. One-way process of communication can be shown in the following figure:



Figure: One-way communication process

**Two-way communication process:** Two-way communication occurs when receiver sends his response or feedback to sender’s message. Communication process basically indicates the *two-way process* whereby both the sender and receiver can understand each other’s view or opinion. It is also known as circuit communication process. The two-way process of communication is shown below:



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## Communication Model Elements

### The Source

The first element in the process of communication is source. The source is the originator of the message. The source can be an individual, group of individuals or an institution or organization. The source is important in communication planning process, because of credibility attached to the messages by virtue of their source. The source should be accessible, acceptable, and legitimate. Source creates an idea (ideation) or chooses a piece of information to communicate.

### The Message

The message is the idea being communicated. The message should be simple, straightforward and action-oriented. The content of the message should be presented among the intended audience and not based on the perception of the programme staff. Too often, the messages are designed centrally and that may not be relevant to specific situation.

### The Channel

A channel is the means by which the message travels from the source to receiver/audience. The channels may be interpersonal where the message passes directly from source to receiver, or group communication where several receivers receive messages from one or several sources. They may involve media, such as news print, telephone or satellite transmission or radio. The choice of the channel is important in determining the efficiency and effectiveness of the communication. Multiple channel of communication should be used for better results. The other purpose is to ensure maximum coverage of audience if more than one channel is used.

### Receiver or Target Audience

Who are the target audience for specific messages? The audience segmentation or grouping is essential to identify an audience whose behavioural change will affect public health and to determine the best means of reaching such an audience with relevant messages. Target audiences need to be segmented according to their knowledge, beliefs and practices, incidence and severity of the health problem, potential to receive messages as measured by the media reach and social network, geographic location and likely responsiveness to programme elements. Audience can be placed on a continuum of behavioural change. Some examples of target audience in broad categories are as under: Children, Parents, Friends, Colleagues.

### Feedback

Feedback is an essential element of communication. Feedback is the response or reactions by the receiver to the source. The perceptible feedback originating in the receiver serves as a useful data to the source to modify its messages. An experienced communicator is always sensitive to feedback and continuously modifies his messages in the light of what he observes or hears from the intended audience, without feedback of audience the communication is one-way traffic.

### Noise

Noise is anything that interferes with your receiving a message. At one extreme, noise may prevent a message from getting from source to receiver. A roaring noise or line static can prevent entire messages from getting through to your phone receiver. At the other extreme, with virtually no noise interference, the message of the source and the message received are almost identical. Most often, however, noise distorts some portion of the message a source sends as it travels to a receiver. Just as messages may be auditory or visual, noise comes in both auditory and visual forms. **Four types of noise** are especially relevant:

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• **Physical noise** is interference that is external to both speaker and listener; it interferes with the physical transmission of the signal or message and would include the screeching of passing cars, the hum of a computer, sunglasses, blurred type or fonts that are too small or difficult to read, misspellings and poor grammar, and popup ads.

• **Physiological noise** is created by barriers within the sender or receiver and would include visual impairments, hearing loss, articulation problems, and memory loss.

• **Psychological noise** refers to mental interference in the speaker or listener and includes preconceived ideas, wandering thoughts, biases and prejudices, close-mindedness, and extreme emotionalism. You're likely to run into psychological noise when you talk with someone who is close-minded or who refuses to listen to anything he or she doesn't already believe.

• **Semantic noise** is interference that occurs when the speaker and listener have different meaning systems; it would include language or dialectical differences, the use of jargon or overly complex terms, and ambiguous or overly abstract terms whose meanings can be easily misinterpreted. You see this type of noise regularly in the medical doctor or a lawyer.

**Role play: Show through the role play the four types of "noises" which hinders the communication flow.**

### **1.2.1 Principles of Interpersonal Communication**

Common to all interpersonal communications are some basic principles. These principles govern the effectiveness of our communications; they may be simple to understand but can take a lifetime to master. This section explains these principles and gives examples of how, why and when interpersonal communication occurs.

#### **Interpersonal Communication is not Optional**

We may, at times, try not to communicate (which can happen with a child in conflict with law); but not communicating is not an option. In fact the harder we try not to communicate, the more we do! By not communicating we are communicating something: perhaps that we are shy, perhaps that we are angry or sulking, perhaps that we are too busy. Ignoring somebody is communicating with them, we may not tell them we are ignoring them but through non-verbal communication we hope to make that apparent.

We communicate far more and far more honestly with non-verbal communication than we do with words. Our body posture and position, eye-contact (or lack of it), the smallest and most subtle of mannerisms are all ways of communicating with others. Furthermore, we are constantly being communicated to, we pick up signals from others and interpret them in certain ways and whether or not we understand is based on how skilled we are at interpreting interpersonal communication.

### **1.3 Effective communication**

#### **The Context of Communication**

All communication has a context; communication happens (or not happens) for a reason. This can be clearly seen with children in conflict with law as well as with family members of the child. The context in such a situation becomes even more important for the probation officer.

Communication can fail because one or more of the participants overlook the context. To help avoid misunderstandings, and therefore communicate more effectively, it is important that the context of the communication is understood by all. Why is the communication happening? It is important that participants are on the same 'wavelength' so that they understand why the communication is occurring. It may be useful to start a larger conversation by explaining why it is happening.

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Knowing why communication is occurring is an important first step - there are however problems that affect the context of the communication:

### **Timing**

Timing is fundamental to successful communication as well as considering a suitable time to hold a conversation you should make sure that there is enough time to cover all that is needed, including time to clarify and negotiate. Talking to an employee about a strategic decision five minutes before they have to leave the office for the day, for example, would probably not be as successful as having the same conversation the following morning.

### **Location**

It should be fairly obvious that communication is going to be less effective if it is conducted in a noisy, uncomfortable or busy place. Such places have many distractions and often a lack of privacy.

### **Misconceptions**

The context of communication is also governed by our own feelings about it and as a JJB Probation Officer we can be the victims of misconceptions or biases. As already discussed, we stereotype people and therefore can develop inaccurate misconceptions and false assumptions. When communicating we may assume that:

- all parties know what we are talking about;
- we know the other person's views and opinions of the situation;
- we should not show any emotion;
- we are right, they are wrong.

There are many other examples of misconceptions highlighting the importance of careful reflection and clarification in all communication.

#### **SHOW FILM CLIP: Munna Bhai MBBS**

The film clip from Munna Bhai MBBS where the character Munna sees a health worker cleaning the floor and a nurse passes over the cleaned floor making him angry. Munna shows how he approaches the angry and disgruntled worker and makes effective communication and body language (Jadu ki Japphi) and makes the worker happy even though he also makes a mistake of walking over he cleaned floor. This can also be used to lead to the section on empathy.

### **What is empathy?**

Empathy is, at its simplest, awareness of the feelings and emotions of other people. It is a key element of Emotional Intelligence, the link between self and others, because it is how we as individuals understand what others are experiencing *as if we were feeling it ourselves*.

Empathy goes far beyond sympathy, which might be considered 'feeling for' someone. Empathy, instead, is 'feeling with' that person, through the use of imagination.

### **Some Definitions of Empathy**

*"[Empathy is] awareness of others' feelings, needs and concerns."*

Daniel Goleman, in Working with Emotional Intelligence

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## Empathy, Sympathy and Compassion

**There is an important distinction between empathy, sympathy and compassion.**

Both compassion and sympathy are about feeling for someone: seeing their distress and realising that they are suffering. Compassion has taken on an element of action that is lacking in sympathy, but the root of the words is the same. Empathy, by contrast, is about experiencing those feelings for yourself, as if you were that person, through the power of imagination.

### Three Types of Empathy

Psychologists have identified three types of empathy: cognitive empathy, emotional empathy and compassionate empathy.

- **Cognitive empathy** is understanding someone's thoughts and emotions, in a very rational, rather than emotional sense.
- **Emotional empathy** is also known as emotional contagion, and is 'catching' someone else's feelings, so that you literally feel them too.
- **Compassionate empathy** is understanding someone's feelings, and taking appropriate action to help.

### Need to Improve Empathy in the work of a Probation Officer

It may not always be easy, but is possible, to empathise with others but, through good people skills and some imagination, we can work towards more empathetic feelings.

Research has suggested that individuals who can empathise enjoy better relationships with others and greater well-being through life.

**Case study/Role play:** participants show the difference between sympathy and empathy through a role play.

## 1.4 Barriers to effective communication

There are many reasons why interpersonal communications may fail. In many communications, the message (what is said) may not be received exactly the way the sender intended. It is, therefore, important that the communicator seeks feedback to check that their message is clearly understood. The skills of Active Listening, Clarification and Reflection may help but the skilled communicator also needs to be aware of the barriers to effective communication and how to avoid or overcome them.

There are many barriers to communication and these may occur at any stage in the communication process. Barriers may lead to your message becoming distorted and you therefore risk wasting both time and/or money by causing confusion and misunderstanding. Effective communication involves overcoming these barriers and conveying a clear and concise message.

### Common Barriers to Effective Communication: A Categorisation of Barriers to Communication

#### Language Barriers

Language and linguistic ability may act as a barrier to communication. However, even when communicating in the same language, the terminology used in a message may act as a barrier if it is not fully understood by the receiver(s). For example, a message that includes a lot of specialist jargon and abbreviations will not be understood by a receiver who is not familiar with the terminology used. Regional colloquialisms and expressions may be misinterpreted or even considered offensive.

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## **Psychological Barriers**

The psychological state of the communicators will influence how the message is sent, received and perceived. For example, if someone is stressed they may be preoccupied by personal concerns and not as receptive to the message as if they were not stressed.

Stress management is an important personal skill that affects our interpersonal relationships. Anger is another example of a psychological barrier to communication, when we are angry it is easy to say things that we may later regret and also to misinterpret what others are saying.

More generally people with low self-esteem may be less assertive and therefore may not feel comfortable communicating - they may feel shy about saying how they really feel or read negative sub-texts into messages they hear.

## **Physiological Barriers**

Physiological barriers may result from the receiver's physical state. For example, a receiver with reduced hearing may not grasp to entirety of a spoken conversation especially if there is significant background noise.

## **Physical Barriers**

An example of a physical barrier to communication is geographic distance between the sender and receiver(s). Communication is generally easier over shorter distances as more communication channels are available and less technology is required. Although modern technology often serves to reduce the impact of physical barriers, the advantages and disadvantages of each communication channel should be understood so that an appropriate channel can be used to overcome the physical barriers.

## **Systematic Barriers**

Systematic barriers to communication may exist in structures and organisations where there are inefficient or inappropriate information systems and communication channels, or where there is a lack of understanding of the roles and responsibilities for communication. In such organisations, individuals may be unclear of their role in the communication process and therefore not know what is expected of them.

## **Attitudinal Barriers**

Attitudinal barriers are behaviours or perceptions that prevent people from communicating effectively. Attitudinal barriers to communication may result from personality conflicts, poor management, resistance to change or a lack of motivation. Effective receivers of messages should attempt to overcome their own attitudinal barriers to facilitate effective communication.

**Intercultural awareness** is, quite simply, having an understanding of both your own and other cultures, and particularly the similarities and differences between them. These similarities and differences may be in terms of values, beliefs, or behaviour. They may be large or small, and they matter very much when you are meeting or interacting with people who are from another cultural background. Understanding that people from different cultures have different values is the foundation to good intercultural relationships.

## **The Importance of Intercultural Awareness**

In a multicultural world, most of us need at least some intercultural awareness every day. For those who live or work away from our native areas/states, or who live or work closely with those from another region, it is absolutely vital. But even just for a two-day visit to a family of a child in conflict with

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law in a remote village in a state, intercultural awareness is a vital quality that can prevent you from causing offence or misunderstanding.

- The use of jargon. Over-complicated, unfamiliar and/or technical terms.
- Emotional barriers and taboos. Some people may find it difficult to express their emotions and some topics may be completely ‘off-limits’ or taboo.
- Lack of attention, interest, distractions, or irrelevance to the receiver.
- Differences in perception and viewpoint.
- Physical disabilities such as hearing problems or speech difficulties.
- Physical barriers to non-verbal communication. Not being able to see the non-verbal cues, gestures, posture and general body language can make communication less effective.
- Language differences and the difficulty in understanding unfamiliar accents.
- Expectations and prejudices which may lead to false assumptions or stereotyping. People often hear what they expect to hear rather than what is actually said and jump to incorrect conclusions.
- Cultural differences. The norms of social interaction vary greatly in different cultures, as do the way in which emotions are expressed. For example, the concept of personal space varies between cultures and between different social settings.

A skilled communicator must be aware of these barriers and try to reduce their impact by continually checking understanding and by offering appropriate feedback.

### **1.5 Communication competence**

Communication competence refers to (1) your knowledge and understanding of how communication works and (2) your ability to use communication effectively. Your understanding of communication would include a knowledge of the elements involved in communication, how these elements interact, and how each communication situation is both different from and similar to other situations. Your knowledge would also include an understanding of the choices you have for communicating in any given situation.

Using communication effectively would involve your ability to select and implement the best choices for communicating, and to read and adjust to the ongoing feedback that you receive from your own messages and that guide the choices you make in selecting future messages. The more you know about communication, the more choices you’ll have available for your day-to-day interactions. It’s like learning vocabulary. The more vocabulary you know, the more choices you have to express yourself. In a similar way, the aim of this text is to increase your communicative competence and thus to give you a broad range of options to use in your own communications.

### **Section 2: Communication Skills**

Communication is about more than just exchanging information. It’s about understanding the emotion and intentions behind the information. Effective communication is also a two-way street. It’s not only how you convey a message so that it is received and understood by someone in exactly the way you intended, it’s also how you listen to gain the full meaning of what’s being said and to make the other person feel heard and understood.

More than just the words you use, effective communication combines a set of skills including nonverbal communication, engaged listening, managing stress in the moment, the ability to communicate assertively,

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and the capacity to recognize and understand your own emotions and those of the person you're communicating with.

## **Verbal and Non Verbal Communication**

### **Verbal Communication**

Speech or spoken words are the most common means of communication with children in their home settings or at a juvenile home. It is an accepted method of giving information. Some Probation Officers are very good in speaking and they articulate so well that it leaves indelible impressions on the minds of other people. Spoken words are also the most important means of communication for the health workers. What to speak, when to speak, how to speak and when to address and with what objectives to address should be clear to the speaker. The situations vary and the context differ. The spoken words should be clear and adhere to local dialects, clearly audible and specific to a subject, simple enough to be understood avoiding all technicalities and jargons. Verbal communication is both an art and skill which gets enriched with experience and interaction with the clients.

The limitation of verbal communication is that you can't hold the attention of individual/ group for too long; it is forgotten quite often and poorly understood or comprehended and least acted upon. Common saying is that "I hear, I forget".

Speeches of acknowledged and influential persons are heard quite often and, thereby, they become legitimate sources of information. "Talking at people" should be discouraged. During your practical skills you will learn more on how to prepare a talk for school health programme or for group discussion.

### **Non Verbal Communication**

Discuss the following questions:

- Do we often communicate without words?
- Describe some ways that we communicate without words. What are some gestures or expressions that we commonly use? List responses on a flipchart.
- Why do you think people use non-verbal communication signs instead of expressing themselves verbally?
- As counselors, why do we need to be aware of non-verbal communication?

We need to be aware of what our client communicates non-verbally, for example, fear, embarrassment, discomfort, shame. As counselors, we also need to be conscious of what we communicate non-verbally to our clients, for example, disappointment, frustration, etc.

Silence also communicates a lot and makes much sense. You communicate to your fellow colleagues or women and children through visual contacts, by frowning, gazing, nodding your head, symbolic movements of your body parts, facial expressions, gestures, laughing, sadness and anger. Combining verbal and non-verbal skill is an art to enrich the process of communication. Sometime you don't say a word but express it through silence and thereby you communicate a lot.

**Step 3** Ask for two volunteers to act out a brief role play on non-verbal communication. Give the volunteers the following instructions:

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## Question/Asking

### Open-ended and Close-ended Questions

**Step 1** Ask participants the following:

- Do you know the difference between open-ended and close-ended questions?

After they respond, ask:

- Will somebody please explain the difference between open-ended and close ended questions?

**Step 2** If participants do not know the difference, explain that the first question was close-ended and the second was open-ended. If participants already have an understanding of open- and close-ended questions, point out how you just used open and close-ended questions to illustrate the concept.

*Read the section on open- and close-ended questions in Handout 9B for a more detailed explanation.*

**Step 3** Read several of the close-ended questions from the list below, one at a time. After reading each question, ask participants to re-state it as an open-ended question.

**Step 4** Discuss the following:

- What are the advantages of open-ended questions?
- When is it necessary and appropriate to use close-ended questions?
- How does this apply in counseling?

### Probing Questions

**Step 1** Introduce the concept of probing questions. Explain that probing questions encourage the respondent to provide more information or clarify a point.

Present the following example:

Client: I could never ask my father to use the bike.

**Counselor:** Tell me some more about that. Or

**Counselor:** You say you could never ask your father to use the bike?

**Step 2** Introduce the following activity for participants to practice using probing questions.

### Paraphrasing and summarizing

**Step 1** Remind participants that during the activity on communication skills they learned about paraphrasing and summarizing. Explain that in this next activity they will combine paraphrasing with the use of probing questions. With another trainer present the following dialogue between a client and a counselor.

#### **Role play/Case study:**

Raju Singh, 15 or 16 year old boy working at a Grocery store absconds after committing robbery at the store and murder of his employer.

Discuss the issues related to asking questions by the probation officer which could go wrong and make the corrections made by another observer sub group.

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## Building Rapport

Rapport is a state of harmonious understanding with another individual or group that enables greater and easier communication. In other words, rapport is getting on well with another person, or group of people, by having things in common, this makes the communication process easier and usually more effective.

**Case study/role play/skit:** The child in conflict with law would not open up or feel confident of the probation officer? Can you list reasons for probation officer not being able to build the rapport for the juvenile to open up and share the story from his/her perspective?

This section examines rapport and how it can be built, especially when meeting new people. Rapport is important in both our professional and personal lives; employers are more likely to employ somebody who they believe will get on well with their current staff. Personal relationships are easier to make and develop when there is a closer connection and understanding between the parties involved – i.e. there is greater rapport.

The first task in successful interpersonal relationships is to attempt to build rapport. Building rapport is all about matching ourselves with another person. For many, starting a conversation with a stranger is a stressful event; we can be lost for words, awkward with our body language and mannerisms. Creating rapport at the beginning of a conversation with somebody new will often make the outcome of the conversation more positive. However stressful and/or nervous you may feel the first thing you need to do is to try to relax and remain calm, by decreasing the tension in the situation communication becomes easier and rapport grows.

### Break the Ice

When meeting somebody for the first time some simple tips will help you reduce the tension in the situation enabling both parties to feel more relaxed and thus communicate more effectively:

Use non-threatening and ‘safe topics’ for initial small talk. Talk about established shared experiences, the weather, how you travelled to where you are. Avoid talking too much about yourself and avoid asking direct questions about the other person.

Listen to what the other person is saying and look for shared experiences or circumstances - this will give you more to talk about in the initial stages of communication.

Be conscious of your body language and other non-verbal signals you are sending. Try to maintain eye contact for approximately 60% of the time. Relax and lean slightly towards them to indicate listening, mirror their body-language if appropriate.

Show some empathy. Demonstrate that you can see the other person’s point of view. Remember rapport is all about finding similarities and ‘being on the same wavelength’ as somebody else - so being empathic will help to achieve this.

Make sure the other person feels included but not interrogated during initial conversations, as you may feel tense and uneasy meeting and talking to somebody new, so may they. Put the other person at ease, this will enable you to relax and conversation to take on a natural course.

Although initial conversations can help us to relax, most rapport-building happens without words and through non-verbal communication channels.

We create and maintain rapport subconsciously through matching non-verbal signals, including body positioning, body movements, eye contact, facial expressions and tone of voice with the other person.

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It is important that appropriate body language is used; we read and instantly believe what body language tells us, whereas we may take more persuading with vocal communication. If there is a mismatch between what we are saying verbally and what our body language is saying, then the person we are communicating with will believe the body language. Building rapport, therefore, begins with displaying appropriate body language - being welcoming, relaxed and open.

**Role play/Skit Body Language:** Participants do a role play in which they use “inappropriate” body language which put the child on defensive and further closes to open up.

As well as paying attention to and matching body language with the person we are communicating with, it helps if we can also match their words. Reflecting back and clarifying what has been said are useful tactics for repeating what has been communicated by the other person. Not only will it confirm that you are listening but also give you opportunity to use the words and phrases of the other person, further emphasising similarity and common ground.

The way we use our voice is also important in developing rapport. When we are nervous or tense we tend to talk more quickly, this in turn can make you sound more tense and stressed. We can vary our voices, pitch, volume and pace in ways to make what we are saying more interesting but also to come across as more relaxed, open and friendly. Try lowering your tone, talk more slowly and softly, this will help you develop rapport more easily.

### **Helpful Rapport Building Behaviours**

If you are sitting then lean forward, towards the person you are talking to, with hands open and arms and legs uncrossed. This is open body language and will help you and the person you are talking to feel more relaxed.

Look at the other person for approximately 60% of the time. Give plenty of eye-contact but be careful not to make them feel uncomfortable.

When listening, nod and make encouraging sounds and gestures.

Smile!

Use the other person's name early in the conversation. This is not only seen as polite but will also reinforce the name in your mind so you are less likely to forget it!

Ask the other person open questions. Open questions require more than a yes or no answer.

Use feedback to summarise, reflect and clarify back to the other person what you think they have said. This gives opportunity for any misunderstandings to be rectified quickly.

Talk about things that refer back to what the other person has said. Find links between common experiences.

Try to show empathy. Demonstrate that you can understand how the other person feels and can see things from their point of view.

When in agreement with the other person, openly say so and say why.

Build on the other person's ideas.

Be non-judgemental towards the other person. Let go of stereotypes and any preconceived ideas you may have about the person.

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**Case study/role play:**

Two girls Rani (14 year old) and Sunita (16 year old) who were involved in prostitution were found by Police during a raid at red light area at 5 O'clock in the evening. During the raid, police also found Sundri (30 year old) with two children (2 year and 8 years old), Meena (21 years old) and Deepa (45 year).

If you have to disagree with the other person, give the reason first then say you disagree.

Admit when you don't know the answer or have made a mistake. Being honest is always the best tactic, acknowledging mistakes will help to build trust.

Be genuine, with visual and verbal behaviours working together to maximize the impact of your communication.

Offer a compliment, avoid criticism and be polite.

**Active Listening**

Active listening is a skill that can be acquired and developed with practice. However, active listening can be difficult to master and will, therefore, take time and patience to develop.

'Active listening' means, as its name suggests, actively listening. That is fully concentrating on what is being said rather than just passively 'hearing' the message of the speaker.

Active listening involves listening with all senses. As well as giving full attention to the speaker, it is important that the 'active listener' is also 'seen' to be listening - otherwise the speaker may conclude that what they are talking about is uninteresting to the listener.

Interest can be conveyed to the speaker by using both verbal and non-verbal messages such as maintaining eye contact, nodding your head and smiling, agreeing by saying 'Yes' or simply 'Mmm hmm' to encourage them to continue. By providing this 'feedback' the person speaking will usually feel more at ease and therefore communicate more easily, openly and honestly.

**Listening is the most fundamental component of interpersonal communication skills.** Listening is not something that just happens (that is hearing), listening is an active process in which a conscious decision is made to listen to and understand the messages of the speaker. Listeners should remain neutral and non-judgmental, this means trying not to take sides or form opinions, especially early in the conversation. Active listening is also about patience - pauses and short periods of silence should be accepted. Listeners should not be tempted to jump in with questions or comments every time there are a few seconds of silence. Active listening involves giving the other person time to explore their thoughts and feelings, they should, therefore, be given adequate time for that.

**Active listening not only means focusing fully on the speaker but also actively showing verbal and non-verbal signs of listening.** Generally, speakers want listeners to demonstrate 'active listening' by responding appropriately to what they are saying. Appropriate responses to listening can be both verbal and non-verbal:

**Signs of Active Listening****Non-Verbal Signs of Attentive or Active Listening**

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### **Signs of Active Listening**

#### **Non-Verbal Signs of Attentive or Active Listening**

This is a generic list of non-verbal signs of listening, in other words people who are listening are more likely to display at least some of these signs. However, these signs may not be appropriate in all situations and across all cultures.

#### **Smile**

Small smiles can be used to show that the listener is paying attention to what is being said or as a way of agreeing or being happy about the messages being received. Combined with nods of the head, smiles can be powerful in affirming that messages are being listened to and understood.

#### **Eye Contact**

It is normal and usually encouraging for the listener to look at the speaker. Eye contact can however be intimidating, especially for more shy speakers – gauge how much eye contact is appropriate for any given situation. Combine eye contact with smiles and other non-verbal messages to encourage the speaker.

#### **Posture**

Posture can tell a lot about the sender and receiver in interpersonal interactions. The attentive listener tends to lean slightly forward or sideways whilst sitting. Other signs of active listening may include a slight slant of the head or resting the head on one hand.

#### **Mirroring**

Automatic reflection/mirroring of any facial expressions used by the speaker can be a sign of attentive listening. These reflective expressions can help to show sympathy and empathy in more emotional situations. Attempting to consciously mimic facial expressions (i.e. not automatic reflection of expressions) can be a sign of inattention.

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## **Distraction**

The active listener will not be distracted and therefore will refrain from fidgeting, looking at a clock or watch, doodling, playing with their hair or picking their fingernails.

Be Aware That:

It is perfectly possible to learn and mimic non-verbal signs of active listening and not actually be listening at all.

It is more difficult to mimic verbal signs of listening and comprehension.

## **Verbal Signs of Attentive or Active Listening**

### **Positive Reinforcement**

Although a strong signal of attentiveness, caution should be used when using positive verbal reinforcement.

Although some positive words of encouragement may be beneficial to the speaker the listener should use them sparingly so as not to distract from what is being said or place unnecessary emphasis on parts of the message.

Casual and frequent use of words and phrases, such as: ‘very good’, ‘yes’ or ‘indeed’ can become irritating to the speaker. It is usually better to elaborate and explain why you are agreeing with a certain point.

### **Remembering**

The human mind is notoriously bad at remembering details, especially for any length of time.

However, remembering a few key points, or even the name of the speaker, can help to reinforce that the messages sent have been received and understood – i.e. listening has been successful. Remembering details, ideas and concepts from previous conversations proves that attention was kept and is likely to encourage the speaker to continue. During longer exchanges it may be appropriate to make very brief notes to act as a memory jog when questioning or clarifying later.

### **Questioning**

The listener can demonstrate that they have been paying attention by asking relevant questions and/or making statements that build or help to clarify what the speaker has said. By asking relevant questions the listener also helps to reinforce that they have an interest in what the speaker has been saying.

### **Reflection**

Reflecting is closely repeating or paraphrasing what the speaker has said in order to show comprehension. Reflection is a powerful skill that can reinforce the message of the speaker and demonstrate understanding.

### **Clarification**

Clarifying involves asking questions of the speaker to ensure that the correct message has been received. Clarification usually involves the use of open questions which enables the speaker to expand on certain points as necessary.

### **Summarisation**

Repeating a summary of what has been said back to the speaker is a technique used by the listener to repeat what has been said in their own words. Summarising involves taking the main points of the received message and reiterating them in a logical and clear way, giving the speaker chance to correct if necessary.

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**Case study/role play:**

A probation officer makes an interview with a juvenile offender. Another sub group observes the mistakes in Active listening.

**Observations**

Observation is a whole brain skill. Using your senses at the fullest capacity that you can, paying close attention to many details, focus, analyzing, reasoning, and memory all take many processes in your brain. Many people envy those that are highly observant, degrading their own Powers of Observation. They seem to fail to realize that these skills can be developed and honed through diligence and training. Here are the activities that I have found that aid in improving my own Powers of Observation. Observation will not only help you to be more aware and smarter in general, but job performance will increase, relationships, etc. Observation is a highly important life skill that many people take for granted.

**Test your observation and recollection skill.** Take a pen and paper and walk out of the room. Now, write everything down which is in the room. Any object, don't leave anything out. Everything you can remember. You'll find out that you cannot remember as many objects as you thought you can. Remember: you may not look at the room while writing down the objects. Go back to the room and look at everything you missed, everything you saw countless time but didn't observe. Now observe everything closely. Repeat the test and you will see that the list is now longer. Keep doing this everyday and you will become better. You can do this exercise with anything: People's faces, people's clothes, objects, dogs, basically: Anything with a lot of detail.

**Persuasion skills**

How often have you needed to persuade others to do something?

It's a situation that arises almost every day, whether it's getting your teenager to tidy their room, or your preschooler to get dressed, or a colleague to attend a meeting on your behalf. Some people seem to be able to do it effortlessly, and almost without anyone noticing, whereas others fall back on the power of their position to enforce what they want.

Persuasion skills can be learnt just like any others, and they are a key part of being able to influence others to achieve your goals and objectives.

**Ways to Influence and Persuade: A Better Way**

The 'Holy Grail' of persuasion, then, is to get others to buy into the idea, and want to do it your way. And the best way of doing that is in a way that others don't notice. But how?

The fable of the sun and the wind is a good example:

The wind and the sun decided to have a competition to decide once and for all who was stronger. They agreed that the winner would be the one who could persuade a man to take off his coat. The wind blew and blew, but the man only held on more tightly to his coat. Then the sun shone gently down, and within minutes, the man took off his coat.

The moral here is that you can't force someone to do what they don't want; instead, the art of persuasion is to get them to want what you want.

**Barriers to Successful Persuasion**

One way to think about what works in persuading others is to think about what doesn't work first. In his book Persuasion IQ, Kurt Mortensen lists ten obstacles to successful persuasion:

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Thinking that you are better at persuasion than you are, and therefore failing to hone your skills. Instead, take a long, hard look at yourself, and see where your skills need to be improved.

Trying too hard to persuade. Seeming too keen probably puts people off faster than anything else.

Failing to put in the effort required to get what you want. Nothing, or at least not much, is free in this world.

Talking too much. Stop, and just listen to the people you need to persuade.

Providing too much information, which just confuses people, and makes them think you are trying to blind them with science. What, they ask, are you not telling them?

Getting desperate. Like insincerity, people can spot fear at a distance, and don't like it.

Being afraid of rejection. This can even stop people from trying to persuade in extreme cases.

Not being prepared. You can't 'wing it' every time. Your audience will see through you, and will think that you value your time more highly than theirs.

Making assumptions about your audience, and then not being prepared to reassess when new evidence emerges.

Forgetting that the whole conversation is important. You need to engage in order to persuade, right from the beginning.

### **Successful Persuasion**

Research shows that there are a number of things that people like about successful persuaders.

Research suggests that these elements are largely emotional. They include keeping promises, being reliable and taking responsibility, being sincere, genuine, and honest, knowing their subject, and believing in it, building rapport, and being entertaining, as well as not arguing and providing solutions that work.

The key skills for successful persuasion, then, are pretty wide. First of all, successful persuaders tend to have high self-esteem and good Emotional Intelligence more generally. They really believe that they will succeed.

You also need to remain motivated and believe in yourself and your ideas.

Additionally, you need to understand how your audience thinks.

Key skills here include Empathy, and good Listening Skills, including Active Listening. If you listen, your audience will usually tell you what and how they are thinking. It also helps to be able to build rapport; people like those who take time to become a friend, as well as an influencer. It follows, really: if we're honest, we'd all much rather do what a friend suggests than someone we dislike, however sensible the idea. Building rapport also helps to build trust.

Good persuaders or influencers also have very good Communication Skills.

It's essential that you can get your point across succinctly and effectively, otherwise you're never going to persuade anyone of the merits of your position.

The final skill of good persuaders is being organised. They do their homework, they know their audience and they know their subject. They have taken time to organise themselves and think about what they want to achieve.

### **Appreciation**

Appreciation is a wonderful thing; it makes what is excellent in others belong to us as well. – Voltaire

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You may not think of practicing appreciation as an obvious communication skill but it's been studied and proven that adding purposeful appreciation and gratitude towards others on a regular basis can be one of the most powerful communication skills you can hone.

The bottom line is this: everyone has a real need to feel appreciated. It makes us feel valued and connected. When we feel genuinely valued and appreciated, we will connect and respond better, even perform better.

Appreciate and recognize the people around you.

Appreciation is a simple communication skill that brings amazing results in building and improving relationships. If you aren't doing it already, start adding appreciation to your daily routine. First, pay attention to those that are doing good things around you and encourage them. Be accessible when they need you. And, most important, thank them for what they do for you. We often underestimate how very powerful the small things are. Here are my top 5 tips to improve your appreciation skills:

1) Be mindful of what is going on around you and be "present" in the moment.

Be open and receptive to giving and receiving appreciation and recognition. Pay attention and catch people doing good things.

2) Focus on individual accomplishment.

It's much more powerful than acknowledging a group. At staff meetings, when someone has done a good job, acknowledge them in front of their peers. At home, announce how pleased you are with your child in front of their friends, or your husband in front of the kids.

3) Be as specific as possible.

When you offer appreciation, describe the impact of what was done. Most people like to hear "you did a good job." However, adding a comment on the difference they made can make the appreciation impact even greater. Don't just say you appreciate someone, give a specific example: "I appreciate you tracking me down for a phone call when I wandered away." or "You did a good job of putting your clothes away today." or "Ritu, I appreciate you for taking the lead on that research. It's really making a difference in the quality of the report."

4) When you see it, say it.

Give the recognition as soon as possible after you see something to appreciate. Timeliness is important, so don't wait!

5) Be sincere.

Don't even try to fake it. People will quickly catch on to you and the impact will be null (it could even make the situation worse).

List all the people and things in your life for which you are grateful. In some special "thank you" and show your appreciation to the people who mean the most to you.

### **Dealing with Difficult people/Situations**

Even the happiest of relationships experience conflicts and problems. If handled well, issues provide opportunities for personal and relationship growth. There are many skills that can help individuals seeking to resolve conflicts in a healthy way. One of the greatest skills that aids in conflict resolution is effective communication. Most people know that in order to resolve conflicts, we need to communicate about the issue; but negative patterns of communication can often lead to greater frustration and escalation of conflict. Dealing with conflict can take varying amounts of mental, emotional, and physical energy.

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Most of us encounter unreasonable people in our lives. We may be “stuck” with a difficult individual at work or at home. It’s easy to let a challenging person affect us and ruin our day. What are some of the keys to empowering yourself in such situations? Below are ten keys to handling unreasonable and difficult people. Keep in mind that these are general rules of thumb, and not all of the tips may apply to your particular situation. Simply utilize what works and leave the rest.

### **In-depth tools on how to effectively handle difficult individuals**

#### **1. Keep Your Cool**

Benefits: Maintain self-control. Avoid escalation of problem.

How: The first rule in the face of an unreasonable person is to maintain your composure; the less reactive you are, the more you can use your better judgment to handle the situation.

When you feel angry or upset with someone, before you say something you might later regret, take a deep breath and count slowly to ten. In most circumstances, by the time you reach ten, you would have figured out a better way of communicating the issue, so that you can reduce, instead of escalate the problem. If you’re still upset after counting to ten, take a time out if possible, and revisit the issue after you calm down.

#### **2. Shift from Being Reactive to Proactive**

Benefits: Minimize misinterpretation & misunderstanding. Concentrate energy on problem-solving.

How: When you feel offended by someone’s words or deeds, come up with multiple ways of viewing the situation before reacting. For example, I may be tempted to think that my co-worker is ignoring my messages, or I can consider the possibility that she’s been very busy. When we avoid personalizing other people’s behaviors, we can perceive their expressions more objectively. People do what they do because of them more than because of us. Widening our perspective on the situation can reduce the possibility of misunderstanding.

Another way to reduce personalization is to try to put ourselves in the difficult individual’s shoes, even for just a moment. For example, consider the person you’re dealing with, and complete the sentence: “It must not be easy....”

“My child is being so resistant. It must not be easy to deal with his school and social pressures....”

“My boss is really demanding. It must not be easy to have such high expectations placed on her performance by management....”

“My partner is so emotionally distant. It must not be easy to come from a family where people don’t express affection....”

To be sure, empathetic statements do not excuse unacceptable behavior. The point is to remind yourself that people do what they do because of their own issues. As long as we’re being reasonable and considerate, difficult behaviors from others say a lot more about them than they do about us. By de-personalizing, we can view the situation more objectively, and come up with better ways of solving the problem.

#### **3. Pick Your Battles**

Benefits: Saves time, energy and grief. Avoid unnecessary problems and complications.

How: Not all difficult individuals we face require direct confrontation about their behavior. There are two scenarios under which you might decide not to get involved. The first is when someone has temporary, situational power over you. For example, if you’re on the phone with an unfriendly customer

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service representative, as soon as you hang up and call another agent, this representative will no longer have power over you.

Another situation where you might want to think twice about confrontation is when, by putting up with the difficult behavior, you derive a certain benefit. An example of this would be an annoying co-worker, for although you dislike her, she's really good at providing analysis for your team, so she's worth the patience. It's helpful to remember that most difficult people have positive qualities as well, especially if you know how to elicit them.

In both scenarios, you have the power to decide if a situation is serious enough to confront. Think twice, and fight the battles that are truly worth fighting.

#### **4. Separate the Person From the Issue**

Benefits: Establish yourself as a strong problem solver with excellent people skills. Win more rapport, cooperation and respect.

How: In every communication situation, there are two elements present: The relationship you have with this person, and the issue you are discussing. An effective communicator knows how to separate the person from the issue, and be soft on the person and firm on the issue. For example:

“I want to talk about what’s on your mind, but I can’t do it when you’re yelling. Let’s either sit down and talk more quietly, or take a time out and come back this afternoon.”

“I appreciate you putting a lot of time into this project. At the same time, I see that three of the ten requirements are still incomplete. Let’s talk about how to finish the job on schedule.”

“I really want you to come with us. Unfortunately, if you’re going to be late like the last few times, we’ll have to leave without you.”

When we’re soft on the person, people are more open to what we have to say. When we’re firm on the issue, we show ourselves as strong problem solvers.

#### **5. Put the Spotlight on Them**

Benefits: Proactive. Equalize power in communication. Apply appropriate pressure to reduce difficult behavior.

How: A common pattern with difficult people (especially the aggressive types) is that they like to place attention on you to make you feel uncomfortable or inadequate. Typically, they’re quick to point out there’s something not right with you or the way you do things. The focus is consistently on “what’s wrong,” instead of “how to solve the problem.”

This type of communication is often intended to dominate and control, rather than to sincerely take care of issues. If you react by being on the defensive, you simply fall into the trap of being scrutinized, thereby giving the aggressor more power while she or he picks on you with impunity. A simple and powerful way to change this dynamic is to put the spotlight back on the difficult person, and the easiest way to do so is to ask questions. For example:

Aggressor: “Your proposal is not even close to what I need from you.”

Response: “Have you given clear thought to the implications of what you want to do?”

Aggressor: “You’re so stupid.”

Response: “If you treat me with disrespect I’m not going to talk with you anymore. Is that what you want? Let me know and I will decide if I want to stay or go.”

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Keep your questions constructive and probing. By putting the difficult person in the spotlight, you can help neutralize her or his undue influence over you.

## **6. Use Appropriate Humor**

Benefits: Disarm unreasonable and difficult behavior when correctly used. Show your detachment. Avoid being reactive. Problem rolls off your back.

How: Humor is a powerful communication tool. Years ago I knew a co-worker who was quite stuck up. One day a colleague of mine said “Hello, how are you?” to him. When the egotistical co-worker ignored her greeting completely, my colleague didn’t feel offended. Instead, she smiled good-naturedly and quipped: “That good, huh?” This broke the ice and the two of them started a friendly conversation. Brilliant.

When appropriately used, humor can shine light on the truth, disarm difficult behavior, and show that you have superior composure. In “How to Communicate Effectively and Handle Difficult People,” I explain the psychology of humor in conflict resolution, and offer a variety of ways one can use humor to reduce or eliminate difficult behavior.

## **7. Change from Following to Leading**

Benefit: Leverage direction and flow of communication.

How: In general, whenever two people are communicating, one is usually doing more leading, while the other is doing more following. In healthy communication, two people would take turns leading and following. However, some difficult people like to take the lead, set a negative tone, and harp on “what’s wrong” over and over.

You can interrupt this behavior simply by changing the topic. As mentioned earlier, utilize questions to redirect the conversation. You can also say “By the way...” and initiate a new subject. When you do so, you’re taking the lead and setting a more constructive tone.

## **8. Confront Bullies (Safely)**

Benefits: Reduce or eliminate harmful behavior. Increase confidence and peace of mind.

How: The most important thing to keep in mind about bullies is that they pick on those whom they perceive as weaker, so as long as you remain passive and compliant, you make yourself a target. Many bullies are also cowards on the inside. When their victims begin to show backbone and stand up for their rights, the bully will often back down. This is true in schoolyards, as well as in domestic and office environments.

On an empathetic note, studies show that many bullies are victims of violence themselves. This in no way excuses bullying behavior, but may help you consider the bully in a more equanimous light.

“When people don’t like themselves very much, they have to make up for it. The classic bully was actually a victim first.” — Tom Hiddleston

“Some people try to be tall by cutting off the heads of others.” — Paramhansa Yogananda

“I realized that bullying never has to do with you. It’s the bully who’s insecure.” — Shay Mitchell

When confronting bullies, be sure to place yourself in a position where you can safely protect yourself, whether it’s standing tall on your own, having other people present to witness and support, or keeping a paper trail of the bully’s inappropriate behavior. In cases of physical, verbal, or emotional abuse, consult with counseling, legal, law enforcement, or administrative professionals on the matter.

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## 9. Set Consequence

Benefits: Proactive not reactive. Shift balance of power. Win respect and cooperation when appropriately applied.

How: The ability to identify and assert consequence(s) is one of the most important skills we can use to “stand down” a difficult person. Effectively articulated, consequence gives pause to the challenging individual, and compels her or him to shift from obstruction to cooperation.

In conclusion, to know how to handle unreasonable and difficult people is to truly master the art of communication. As you utilize these skills, you may experience less grief, greater confidence, better relationships, and higher communication prowess. You are on your way to leadership success!

**Case study/Role play: Take a situation where the Juvenile in conflict with law as well as his family members are a difficult people to handle, are not cooperating and even threaten the probation officer.**

### Writing and documentation skills

Writing skills are an important part of communication. Good writing skills allow you to communicate your message with clarity and ease to a far larger audience than through face-to-face or telephone conversations. Writing skills are essential to the job, as Parole Officers must prepare many detailed reports regarding offender progress and specific case management plans. Oral communication and interpersonal skills are important as Officers must articulate goals and expectations clearly to offenders in order to establish constructive working relationships with them. It is also beneficial to have a strong interest in the legal system and social welfare as Probation Officers are helping reintroduce problem individuals back into society. Because the Probation Officer deals with many other parts of the Criminal Justice System and often handles a very large caseload, the ideal candidate is very organized, able to meet tight deadlines, and can handle working in stressful situations. You might be called upon to write a SIR, plan or case study at work. It is mandatory for an SIR to be submitted to the JJB under the JJ Act, for each and every child produced before it.

### Recap: what have we learnt

1. Communication skills
2. Verbal and nonverbal communication
3. Inter personal communication
4. Barriers to effective communication
5. Active listening
6. Asking
7. Observation
8. Empathy
9. Building rapport
10. Appreciation
11. Persuasion
12. Dealing with Difficult people
13. Writing and documentation skills

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**MODULE FOR TRAINING OF LEGAL SERVICES LAWYERS AND PROBATION OFFICERS ATTACHED TO THE JUVENILE JUSTICE BOARDS ON COUNSELING FOR CHILDREN AND THE FAMILIES UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

– Dr. Tejinder Kaur\*

**SESSION PLAN**

**Objective**

1. To introduce the concept of counseling/ group counseling of children in conflict with law and their families.
2. To give basic knowledge and insight into the process of lay-counseling of children in conflict with law (who are also in need of care and protection) and their parents/guardian.

**Expected learning outcome**

1. Participant will be able to understand the child's circumstances better and work on the case of the child appropriately.
2. Participant will be able to counsel a child in conflict with law and his/her family for better rehabilitation of the child.
3. Participant will be able to assist in decision-making process in a better manner at all stages that the child in conflict with law moves within the Juvenile Justice system.

**Programme:**

1. **Introduction** 30 minutes  
Trainer will introduce the participants to the basics of counseling to enable them to handle and re-model the behavior of children in conflict with law appropriately and enable their families to understand them better and to enable proper rehabilitation of children, so as reduce instances of children again coming in conflict with law.
2. **Activity, Small Group Discussions and Whole Group Discussions** 30 minutes  
Participants will be divided in groups of 4-6 and they will be asked to take up the activity as children and the responses will be discussed in the small group and the whole group.
3. **Case study Presentation, Small Group Discussions and Whole Group Discussions** 45 minutes  
Participants will be divided in groups of 4-6 and they will be asked to find answers to the questions. Each group will present its views to the whole group for discussion. Resource person will supplement the discussion to cover all points to sum up the concept. Resource person shall provide the missed out points and will present a holistic view of the topic.

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\*Joint Director, NIPCCD, Resource person will supplement the discussion to cover all points to sum up the concept.

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**4. Concluding Remarks**

15 minutes

Remarks will be made by the resource person or one of the participants, summing up the essence of the topic.

**Training Method**

1. Interactive session: presentation followed by discussion
2. Activity followed by discussion
3. Case study presentation with discussion

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**SHORT NOTES ON  
COUNSELING FOR CHILDREN AND THE FAMILIES  
UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)  
ACT 2015**

*– Dr. Tejinder Kaur\**

**Introduction**

Counseling is a process that helps children and their families to help themselves to recognize and identify the factors responsible for the circumstances that lead to a child being in need of care and protection or coming in conflict with law and also facilitates the children and their families to recognize their strength, identify such resources that can help them overcome their problems, explore the available options and take healthy decisions. Counseling can also be an important support in certain set of circumstances for avoiding the children from being at risk of being repeatedly declared as ‘Children in Need of Care and Protection’ (CNCP) or ‘Children in Conflict with Law’ (CCL). Counseling is a way to help children and their families find their own solutions to their problems and at no point of time should the counselor or others in touch with them impose their own views and beliefs on the child and /or the family. Although Counseling is a specialized branch of psychology, yet, certain individuals who come in contact with CNCP or CCL can be trained to assume counseling responsibilities, as it may be necessary for such lay-counselors to intervene from time to time, if the child needs some immediate support or in cases when child is involved in illegal or potentially dangerous or harmful behavior/ situation. Such lay-counselors may include Probation Officer, Panel lawyer, member of the Child Welfare Committee, member of a Juvenile Justice Board and Social Worker.

**Goals of Counseling**

The goals of any process of counseling are:

- Helping the child and/or the family to develop problem solving skills and facilitate to enable solving the identified problem.
- Helping the child and the family through an emotionally difficult time by building resilience and teaching coping skills.
- Helping a child and/or the family to develop skills to adopt a positive outlook and learn to live in peace and harmony with the given situation, which may not change soon (e.g. death of a parent, low income, etc.).

**The process of counseling may be designed to:**

- Create a safe place for the child and /or the family to open-up and share information
- Help the child and /or the family to identify the problem
- Help the child to acquire skills to be more aware of his own feelings and experience
- Help the child and /or the family to work through various options and make reasoned and informed choices
- Allow child to express his emotions in an uninhibited manner
- Help the child to identify how he/ she feels after the counseling process and having found a solution to his/ her problem

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\* Joint Director, NIPCCD

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## **Steps in the process of counseling**

Step 1: Joining in and building a rapport and trust

Step 2: Exploring to understand the situation of the child/ family

Step 3: Sharing and exploring the possible options among solutions

Step 4: Helping the child/ family to arrive at the best solution in a given set of circumstances

Step 5: Continue the process or terminate the process, as per the circumstances

Step 6: Building self-esteem in the child and generate life skills for healthy social existence

## **Phases in the process of counseling**

- i. Trust building
- ii. Establishing the relationship
- iii. Exploration (understanding the problem)
- iv. Resolution (decision making)
- v. Termination

## **Trust Building**

It is important to start building trust from the beginning of the relationship and to be consistent about it thereafter.

- Make sure the child feels safe and comfortable (do not touch the child without asking his/her permission, allow the child to decide where the child would like to sit, leave the door open, if the child so desires).
- Speak to the child in an age appropriate way.
- Be honest with the child about the counseling relationship and what you believe is achievable; be positive but realistic (i.e. if a child is upset because his/her father left the family, don't repeat that fact before the child, say it is 'ok' and that his/her father will come back).
- Genuinely care about and be interested in the child.
- Be sensitive to the child's language and cultural beliefs, respect the child's socio-cultural background (i.e. familiarize with the child using his/her cultural mores, if possible, making eye contact and try to be at the same emotional plane).
- Respect confidentiality – NEVER discuss the case of the child with your own friends and family, etc.
- Don't judge or tell the child what to do.
- Find out general information about the child (i.e. likes, dislikes, hobbies, friends, talents, but BE CAREFUL NOT TO COME ACROSS IN AN INTERROGATING MANNER)

## **Exploring to Understand**

The purpose of "exploring" is to get a better understanding of the problem by helping the child to tell his/her story (i.e. to help the child to express his concerns, what worries him/her and why). The exploring stage will also never end as the lay-counselor can always learn more about the child's situation from time to time.

Some examples of questions that can be asked to help a child express himself include:

- How are you doing today?
- Tell me about your family... Who lives in your home? How is it going?

- How is school? Do you like your teacher?
- What is your happiest memory? What do you hope for?
- Is there anything specific that is troubling you that you would like to talk about?
- What can I help you with?

It is very important to understand more about the child’s life (home, family, school, friends, etc.) so that you can fully understand the context of the problem but also know how to help the child out of the present difficult circumstance that the child finds himself/ herself in.

**What resources are available to the child?**

For instance, you may explore the following:

**Family Life**

- Who is the child’s caregiver?
- Does the child have siblings?
- Are other relatives living with the child’s family? Are all members of the family healthy? Have any close relatives passed away?
- What impact do these people have on the child?
- If the child has moved/run away from the family, what were the circumstances for doing so; who all were in touch with the child; what were the experiences of the child after leaving the family?

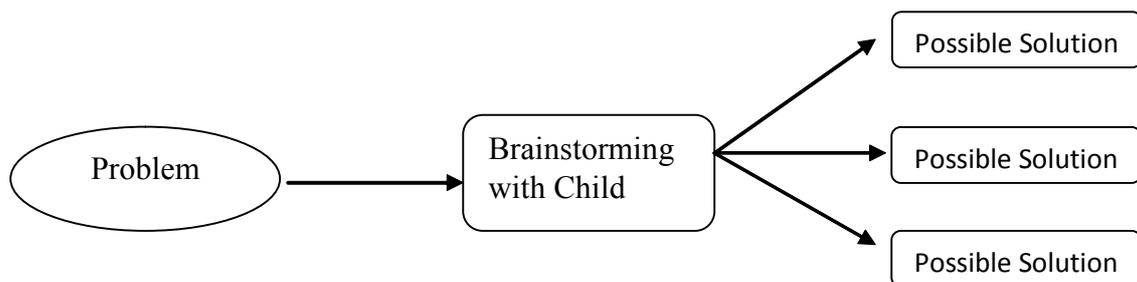
**Social Life**

- Who are the child’s friends?
- Does the child go to school, temple/church/ mosque/ any other place of worship or other places in the community where he interacts with people?
- Have any close friends/ family member passed away? What impact did the person have on the child and how did it affect the life of the child?
- Who was/is the child close to? What influence did/ does the person have on the child?

**Setting Priorities**– If there are many issues raised or problems identified, it is the CHILD and not the lay-counselor who should decide what is most important and thus what should be worked on first and the lay-counselor (i.e., Probation Officer, Panel lawyer, members of the Child Welfare Committee, Juvenile Justice Board or Social Worker, as the case may be) should only facilitate such prioritization.

**Give the child some time**- Do not expect a child to talk about the most sensitive areas of his/her life during the first session! Give him/ her some time to open up to you.

**Step 3: Sharing Possible Solutions** Possible Solution.



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Our role, as lay-counselor, is to help the child grow and learn problem solving skills, and we can straight-away start doing so at this stage! As far as possible let the child come up with the information and let the child work out what the related solution may be. The lay-counselor would obviously have to use his/her judgment here – if the situation is severe or at crisis-level or if the child is too young, then the lay-counselor would play a more active problem solving role than in cases where the child is older and needs only a facilitative support.

Remember whilst we want the child’s problems to be solved, it is an even bigger success if we can teach the child to solve his/her own problems – we are not here to be the hero or to get any complements! The reward of the whole counseling process is the enhanced psycho-social competence of the child to cope with his/her personal difficult circumstance and emerge as a stronger individual, who no longer would need support as CNCP or CCL.

#### **Step 4: Helping the Child Choose the Best Solution for Self**

Not all solutions are good solutions! A solution that works for one person may not be acceptable to another! It is the role of the lay-counselor to help the child work through the possible solutions to find out what IS BEST FOR HIM/ HER.

**Key things that must be considered for each possible solution are:**

**Four Key Questions:**

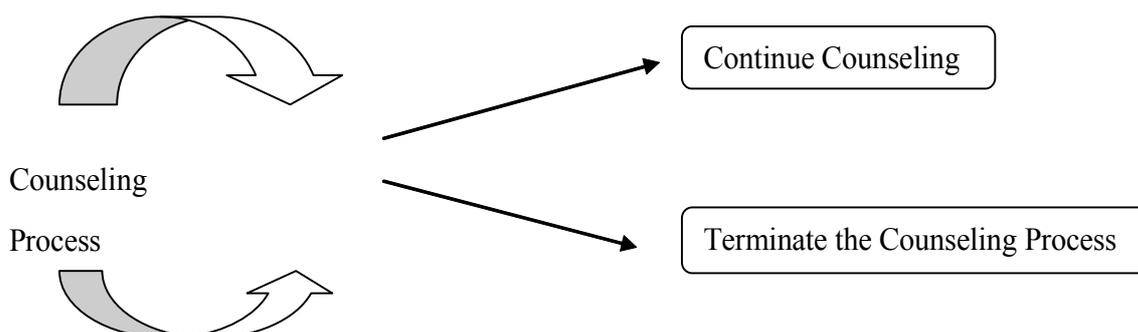
- What are the pros and cons of each solution?
- What are the consequences of each solution?
- How will each solution make the child feel?
- What impact will each solution have on other people?

Once the child has narrowed down the solution/s he/she would like to pursue, help to the child by asking action questions such as:

- ☞ How are you going to make this solution happen? What should the first step be toward solving the problem?
- ☞ Who could help you to bring about these changes?
- ☞ What could be a barrier (problem) to this solution and how will you deal with the barrier? (The reason for highlighting possible barriers is not to discourage the child, rather to prepare them that the solution may not be easy or quick, to help them not give up when the first barrier is encountered.)

#### **Step 5: Continue or Terminate**

The following diagram demonstrates the most common next steps:



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## Continuing Counseling

- ☞ The child may not be able to express everything that is worrying him/her and work through all the solutions in one session! So you may need to see the child a few times! So long as you are making progress that's absolutely fine!
- ☞ It may be difficult to bring a session to an end if it has been particularly emotional, but ideally, a counseling conversation should be less than an hour – so that it is not overly exhausting for the child or lay-counselor, to give the child time to think through what has been discussed, so that the lay-counselor has time to attend to other children and to his/her other duties.
- ☞ It is also difficult to get back to that 'deeper' area of concern that needs counseling support, in the next session after you have not seen the child for a few days. The technique of 'summarizing' can help us bring one session to a close and regain the same place in the next session.
- ☞ Always remember to reassure the child that you are available, if something goes wrong before the next session and agree to a time and place for the next conversation/ session/ hearing/ interaction.

## Terminate Counseling

Counseling can be terminated when you (as lay-counselors while being Probation Officer, Panel lawyer, member of the Child Welfare Committee, member of a Juvenile Justice Board or Social Worker) and the child feel that the child is ready to move on without further assistance. Remember the purpose of counseling is to help them grow, to be able to cope with or solve their own problems – and certainly not to breed dependency.

The following is important to remember in preparation for terminating counseling:

- ☞ Is the child emotionally ready to end the relationship?
- ☞ How can the family be involved to offer continued support?
- ☞ Help the child consider other coping structures (i.e. an aunt, a friend, a pastor/ a priest, or a peer group).
- ☞ Always explain to and agree with the child that the counseling will be terminated (or reduced in frequency).
- ☞ Assure the child of continued support, as and when necessary.
- ☞ Before terminating counseling, it may help to meet with the child less often and wean him/her from the counseling relationship (i.e. if you met once a week for 3 months, meet once every 2 weeks for a month, and so on, before termination).

## Step 6: Building Self-Esteem in Children

**Appreciation** – A child's self-esteem will suffer if he or she is not appreciated. A child will know if an adult or other young person is insincere and/or does not enjoy the child's company. When spending time with a child who has low self-esteem, it is vital to honestly enjoy his company, to express your enjoyment, to congratulate or thank the child when he has done something well. Appreciate the child's special skills and his uniqueness. Make the child feel wanted and important. It reduces chances of coming in conflict with law as an 'attention-seeker'.

**Encouragement** – A child's self-esteem is boosted by words of encouragement. Encouraging decision making in a child will also lead to feelings of confidence and independence in the child.

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**Praise** – Self-esteem comes from what you think about yourself, while praise is an external expression by someone else. However, praise is also one of the ways for encouraging a child to value himself and his unique abilities. It helps reinforce positive behavior in a child.

**Mutual respect** – A child’s self-esteem will be strengthened when he is treated with respect and taken seriously, especially when expressing his views. When a child is treated as an intelligent individual with the capacity to understand things and to learn from his mistakes, the child will understand that he/ she is respected and valued for who he/ she is. The child also learns to show mutual respect towards other members of the society, thereby reducing the chances of the child coming in conflict with law under many circumstances.

**Dealing with failure** – If a child fails he must not feel that he is a failure. Remind the child that failure is only a temporary setback on the road to success. Never tell the child he has failed, let you down or cannot succeed. Be encouraging and help the child to believe in his ability to succeed, no matter how long it takes! When a child does not succeed in his endeavor, teach him that he can learn from the situation and encourage him to analyze the situation and understand what he can do better next time. Make the child appreciate that it may not be worthwhile to focus on an activity that the child did not succeed in and help the child to focus on another activity which may be more appropriate for the child. Also make a child appreciate that there can be disappointments in life, but these are not the end of the road for him, rather life is a combination of successes and failures, where we learn from our set-backs and make a new beginning. Let the child know and identify what is achievable and what is not achievable, and remodel his/ her efforts and focus his energies accordingly.

**Attitude** – The way a lay-counselor (who may be a Probation Officer, Panel lawyer, member of the Child Welfare Committee, member of a Juvenile Justice Board or Social Worker) sees a child will make a big difference in the child’s attitude. Although many children are dealing with very difficult situations, it is important that the counseling relationship be a place where the child learns to see his/ her strengths, identify his/ her weaknesses and threats and works to reduce those, capitalize on his/ her opportunities using his/ her strengths and acquired/upgraded skills. It is good to work with the child to undertake a SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis to help the child emerge stronger and not persistently be in need of care and protection or repeatedly come in conflict with law. However, if the lay-counselor pities him/ her and only sees the negative in the child’s situation, it can keep the child from growing and coming out of the difficult circumstances, be it a child in need of care and protection or a child in conflict with law. The attitude of the lay counselor (who may be a Probation Officer, Panel lawyer, member of the Child Welfare Committee, member of a Juvenile Justice Board or Social Worker) strongly impacts the psyche of the child and the way a child looks at himself/ herself and the circumstances that the child is in.

### **Effective counseling skills**

- ❖ Active listening
- ❖ Paying attention: Eye-contact, nodding, etc.
- ❖ Hearing before evaluating.
- ❖ Listening for the whole message.
- ❖ Probe for causes and feelings.
- ❖ Reflection-feeling and meaning: recognizing child’s feelings and letting him/ her know that you have understood his/her feeling.
- ❖ Questioning: Asking open ended questions which allow for more explaining. Help the child to go deeper into his/ her problems and gain insight.

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- ❖ Paraphrasing: Repeating in one's own words what the child has said.
  - ❖ Interpretation: Giving back to the child the core issue that he/she is struggling with.

### Qualities of an Effective Counselor

- Positive regard or respect for people.
- Open, non-judgmental and high level of acceptance.
- Caring and empathetic.
- Self-aware and self-disciplined.
- Knowledgeable/informed about subject and awareness of resources available within the community.

### Basic principles of counseling to be followed:

- ❖ **Trust:** Counselors cannot help a child if there is no element of trust. Before moving into counseling, establish trust. Child feels free to express and share his/her concerns when the child can trust somebody.
- ❖ **Confidentiality:** Respect the privacy of the child. Assure him/her that everything will be kept in strict confidence. Confidentiality in the entire process of counseling is very important and enhances the dignity of the child.
- ❖ **Self-Determination:** The child can make his/her own decisions about life, as much as is realistically possible. The role of the counselor is to provide OPTIONS and OPPORTUNITY, or to help the child to explore alternatives best-suited to his/her capability and situation (coping strategies).
- ❖ **Positive Approach:** Emphasize what the child does well and focus on approval, instead of disapproval. Reward the child when he/she does things well or when he/she makes an effort.
- ❖ **Focus on Feelings:** It is often essential to discuss the child's feelings (both open and hidden ones) to help him/her understand himself/herself and his/her circumstances better and cope with life in a better manner.
- ❖ **Showing Empathy:** 'Empathy' is the ability to enter the perceptual world of the other person, to see the world as the other person sees it. It is important to understand the child and his/her problems from his/her point of view. This provides emotional support.
- ❖ **The Lay-Counselor must appear to be Genuine:** The counselor should not only be but also appear to be completely involved in the interactive counseling process to demonstrate to the child his/her genuineness so that the child is able to draw benefit of such interaction and the lay-counselor is also able to discharge his/her function as a Probation Officer, Panel lawyer, members of the Child Welfare Committee, Juvenile Justice Board or Social Worker effectively and with correct knowledge and perspective of the situation and the circumstances of the child, to arrive at a proper decision in the 'best interest of the child'. Yet it is essential that the Probation Officer, Panel lawyer, member of the Child Welfare Committee, Juvenile Justice Board or Social Worker remains emotionally balanced and reasoned in his/her approach and action.

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## Skills and Techniques of Counseling

### Rapport Building:

- Rapport is a relationship of mutual respect, responsiveness and influence
- It is an ongoing process
- It is an honest attempt to understand another person (here a child) from his/her perspective (i.e. a child's world)
- A willingness to be open – it is not a formal agreement
- In order to build rapport you need to have respect for the child's beliefs and values. However, you do not have to agree with those
- It is a willingness to see events from the child's perspective

### Attending

#### 1. Physical Attending:

- Posture, eye contact, and general body position that communicates that the counselor is paying attention to the child.
- Do not have a physical object between you and the child.
- Maintain a comfortable distance between you and the child.
- Face the child directly.
- Establish eye contact.
- Maintain an open posture.
- Lean toward the child.

#### 2. Psychological Attending:

The ability to pick up on the child's non-verbal as well as verbal messages/cues.

### Exploration Skills

**Responding with Empathy:** Listening and understanding as if you were the child and then communicating as per your understanding.

### Self-Disclosure

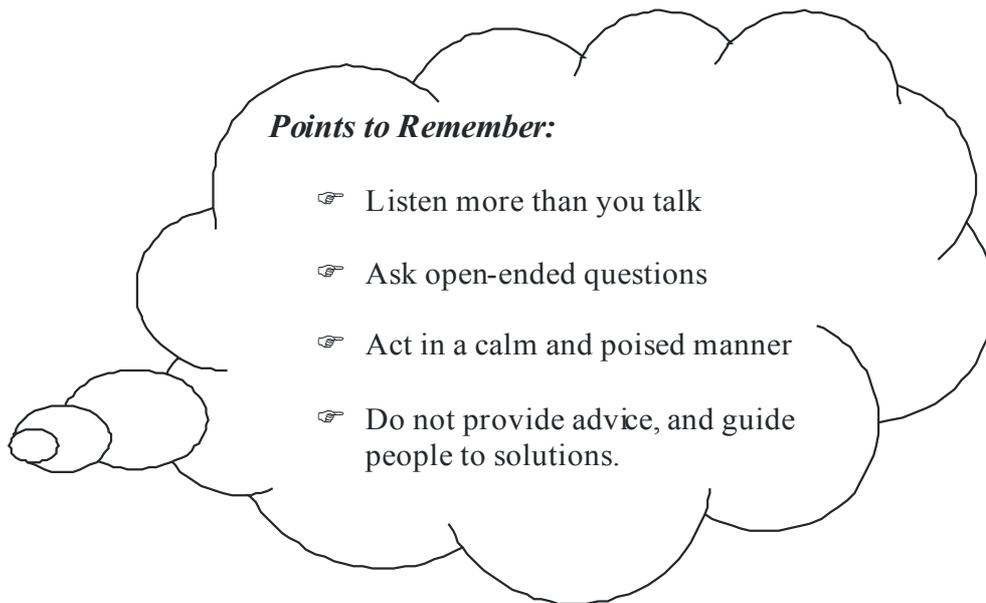
#### Sharing personal information with a child:

- It must be for the benefit of the child and not the counselor.
- It can be used as a model to help the child's self-disclose.
- It should not take the focus off the child.
- Used sparingly and appropriately, it can enhance the therapeutic relationship.

### Advising

#### A form of directive:

- The advising should not be seen as a command or a demand.
- Counselors need to take responsibility for the advice they give.
- Do the advising in such a way that it leaves the client with the ultimate choice.



Qualities of a good counsellor, skills in counselling and barriers to effective counselling, which include physical barriers, differences in social and cultural background, non-verbal communication, and barriers caused by the child are also important to be taken note of, while acting as a lay-counsellor during the process of interaction with the child.

#### **Tips for maintaining a healthy counseling relationship**

- ☞ It is very easy to develop unhealthy counseling relationships. It is the counselor's responsibility to maintain professional boundaries with the child being counseled during interaction.
- ☞ At times the child may become more attached than is appropriate. The child may begin to see the lay-counselor as a parent, friend or romantic partner. It is imperative that the child understands that the lay-counselor cares for him/her, yet the child also knows that the lay-counselor is not able to fulfill some of the unmet needs and the interaction is to look for how best to address the needs of the child within the juvenile justice system, so as to enable the child to become a productive member of the society.
- ☞ The lay-counselor may develop feelings for the child and become overly involved in the child's well-being but needs to remind himself/ herself, where his/ her role ends.
- ☞ The child feels uncomfortable and/or threatened by the lay-counselor (who may be a Probation Officer, Panel lawyer, member of the Child Welfare Committee, Juvenile Justice Board or Social Worker) and may not cooperate during interaction. The lay-counselor may take support of another stakeholder within the Juvenile Justice system or give time some to change his perception about the lay-counselor through use of tact and an improved communication strategy, as no two children are similar in sensitivity, experience and background and each child is to be dealt with appropriately by arriving at the psycho-social plane of the child.

**What counseling is not?**

<b>COUNSELLING IS</b>	<b>COUNSELLING IS NOT</b>
Establishing relationships with children that are helpful	Judging children
Helping children tell their story	Interrogating children
Listening to children with all your attention	Blaming/ Labelling children
Giving children correct and appropriate information	Making promises you cannot keep
Helping children make informed decisions	Making decisions for children
Helping children to recognize and build on their strengths	Preaching or lecturing to children
Helping children develop a positive attitude towards life	Arguing with children
Having conversations with a purpose	Imposing your own beliefs on children
Referring when situation requires therapy	Giving good advice
	Becoming the child's best friend

**Group Counseling**



Group counseling is a form of psychotherapy that usually involves 4 to 10 persons (children in this case) and one or two individuals administering group counseling. Group counseling is a therapy format that approaches issues of personal growth through the use of interpersonal interaction – to interact with others to identify and understand our maladaptive patterns and how to change them. Group interactions provide an opportunity to build relationships and receive interpersonal feedback about how we experience one another. You can gain specific

skills and strategies to meet personal goals, explore areas that present personal challenges, and gain support and encouragement from others. Group counseling process in case of children in need of care and protection and children in conflict with law is one of the most effective ways to explore and support changes they wish to make in their lives through facilitated group interactions, after appreciating their situation and arriving at decisions best suited to improve their lives. It shall facilitate the process of self-empowerment of the child in conflict with law and his/her successful rehabilitation and reintegration into the society, with minimization of chances of once again coming in conflict with law.

Feeling safe in group is very important to a successful group counseling experience and confidentiality of all children in the group should be duly protected. Also, during the process of group counseling, some group members will be ready to disclose their thoughts and feelings early on in the group, whereas some others need more time to gain feeling of trust and security to open up. The pace and readiness of children in the group for sharing information is to be respected. During that time, the children in the group discuss the issues that are concerning them and offer each other support and feedback. Interpersonal interaction is highly valued and encouraged. Group counseling may be particularly useful for children having difficulties in their relationships or who want to improve their life-

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patterns, being encouraged by other children having similar dilemmas and problems, including having knowingly or unknowingly come in conflict with law. The leaders within the children's group and the other children who open-up faster can help other children to change their identified unproductive patterns by giving feedback about how they perceive their peers and by offering alternative ways of interacting and handling life situations. A group can also be a safe place to try out or practice some of these new options with persons who are caring and encouraging. Group also helps children see that they are not alone in their pain. Finally, with help of lay-group counselors and more active peers within the group, children can get advice and guidance from each other. Even if it is difficult for a given child to interact in a group situation, still such a child can benefit from being in a group, through internalizing and analyzing the information shared by other children in the group and mentally working out best solutions for self through informed decision-making.

During group counseling, children may be allowed to formulate their own rules, like:

- ✓ Only one child will speak at a time
- ✓ A child can pass on the chance to another child, if he/she does not wish to talk
- ✓ Each child will keep private and not share outside the group, all the discussion that takes place in the group
- ✓ No child participating in the group counseling shall be criticized by other children in the group
- ✓ All children will respect each other's views, even if they do not agree with such views

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## ACTIVITY FOR SESSION VII

### ACTIVITY PLAN FOR GROUP DISCUSSIONS-I

Ask small group members to assign themselves a number and pick up the corresponding point on the board/ chart before them to record the response on a chit of paper as if it was response of the child in conflict with law. Ask each group member the reason behind the response and discuss within the small group.

**Questions for response on chit of paper:**

1. What makes you happy?
2. What makes you sad?
3. What makes you angry?
4. What excites you?
5. One person you hate most?
6. One person you like most?
7. One thing you would like to change in your life?
8. One person you miss the most?

**In Small Group Discussion seek response to:**

1. What lead questions shall you formulate for exploring the background of the child to work on the rehabilitation plan of the child?
2. Can you link these responses of the child to his life experiences?
3. Can you identify sensitive areas of interaction with the child?
4. Can you identify the support system of the child?
5. What areas of relationship strengthening will you identify to normalize social interactions of the child?
6. What weak areas of a child's personality need to be reinforced for positive outcome to successfully reintegrate the child into the society?
7. What is your SWOT analysis of the child?
8. Can you identify the interests and vocational aptitude of the child?

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## ACTIVITY FOR SESSION VII

### READING FOR GROUP DISCUSSIONS-II

Amit, aged 15 years, was a bright student in class IX who always secured a position between first five scorers in his class up to class VIII. His parents rewarded him with gifts and he was praised by both teachers and the neighbors. Just before the Annual examination of class IX that year, his mother died of dengue. His father re-married in next few months to ensure that Amit and his sisters, Neha aged 12 years and Rupa aged 9 years were cared for and his father could continue to run his business smoothly. The step mother, who was barely 20 years old, was never happy with her marriage to Amit's father, who was 20 years elder to her and was more interested in his business activities and did not have much time to spare for his newly married wife and three children from the first marriage.

With passage of time, the bitterness increased in relationships at home, where step mother did not shower affection on Amit and his sisters and found fault with all the three step children. On occasions, Amit would not get breakfast in time and went hungry to school. His grades slipped and he could not concentrate on his studies due to constant bickering at home. As a result, he was no more appreciated by his teachers and was scolded by his parents at home. His father was too busy with his business and did not attend Parent-Teachers Meetings and his step mother too avoided these meetings or would misrepresent facts and ignore advice of his teachers during such meetings. As a result of persistent neglect, Amit became closer to a group of his classmates who were deviant in their behavior and were not positive role models at all. He started smoking, drinking and drug abuse in their company and avoided spending time at home. Since his pocket money was limited, he got involved in raising additional money through car-lifting and drug-pedaling. He failed in class X Board Examinations and his father showed his disapproval of his failure and his step-mother too painted him black.

In the next few days, Amit left home due to constant fights between him and his parents over his conduct and he could not accept that all fault lay in him and there was no one to support him or view his position impartially. Being penniless and homeless, Amit thought of lifting a car from a near-by car parking and went there. Unfortunately, he was caught in the process before he could take the car out of the parking lot. The Parking Attendant called in the Police, who on finding him to be a 16 year old adolescent, presented him before the Juvenile Justice Board. Amit posed a challenge before the Board, the Social Worker, the Probation Officer and the Panel Lawyer, by not divulging the name and address of his parents or any other information that could be help in working out his case and rehabilitating him and it was apparent that he was not interested in sharing his past life with anyone out of the fear that his family would be called in and he would be, sooner or later, handed over to them. Home was the last place he wanted to go back to, even though he wanted to see his sisters, who were suffering silently at the hands of his step mother.

#### **In small group discussion seek response to:**

1. Should Amit be sent to the Observation Home and left with the staff of the Home to deal with him?
2. What should be the strategy and course of action to make Amit open-up?
3. What should be done to arrange information for the Social Investigation Report of Amit?
4. How should the Probation Officer gain information to draw up Amit's Individual Care/ Rehabilitation Plan?
5. Does only Amit need counseling or his parents also need to be counseled?
6. What will be more appropriate in case of Amit and why:

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- (a) Individual counseling; or
  - (b) Group counseling; or
  - (c) Both individual and group counseling.
7. Is there a possibility of rehabilitation within his immediate family or nor? What are the alternatives available?
8. How can the panel Lawyer gain information to prepare and present Amit's case to assist the Board at arriving upon a fair and just disposal of Amit's case in a positive and constructive manner so that Amit is actually able to come out of his difficult circumstances?

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Session VIII(a)  
11.45 AM - 1.15 PM  
Total Time: 1 Hours 30 minutes

**MODULE FOR TRAINING OF LEGAL SERVICES LAWYERS AND PROBATION OFFICERS ATTACHED TO THE JUVENILE JUSTICE BOARDS ON SOCIAL INVESTIGATION REPORT UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

– Justice Manju Goel (Retd.) \*  
– Arlene Manoharan \*\*

**SESSION PLAN**

**Objectives**

1. To enhance their knowledge and understanding of the Social Investigation Report, and its value in informing the psycho-socio-legal inquiries conducted by the Juvenile Justice Boards under the Juvenile Justice Act 2015.
2. To enable the Probation Officers to sharpen the skills they need to prepare a Social Investigation Report
3. To trigger reflection and processes that empower the Probation Officers to identify individual and systemic bottlenecks that come in the way of effective social investigation and to identify practical solutions that could help in resolving them.

**Expected Learning Outcomes**

1. They will be able to see themselves as vital actors in Probation Services, which is a key pillar of the Juvenile Justice System.
2. They will gain a deeper understanding of the Social Investigation Report as a tool to enable judicial decisions and state responses that ensure positive outcomes for children, their families, and the wider community as a whole.
3. Participants will be better acquainted with the duties of the Probation Officer *vis a vis* the specific role of preparing Social Investigation Reports in order to inform the orders of the Juvenile Justice Board that ensure care, protection, development, treatment, rehabilitation and social re-integration of children in conflict with law (grant of bail, interim and final orders).
4. They will develop their skill in preparing more comprehensive and evidence based Social Investigation Reports to inform the orders of the Juvenile Justice Board.

**Suggested Training Methodology**

1. Lecture
2. Experience sharing

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\* Former Judge, High Court of Delhi

\*\* Arlene Manoharan, MSW Fellow, Programme Head - Juvenile Justice, Centre for Child and the Law (CCL), National Law School of India University (NLSIU), Bangalore

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3. Group activity

**Programme**

1.	Introduction and Ice-Breaker Session	5 minutes
2.	Understanding the importance of the SIR in informing the multi-disciplinary inquiries and orders of the JJB	15 minutes
3.	Activity- 1 Experience Sharing	15 minutes
4.	Activity- 2 Experience Sharing	15 minutes
5.	Activity- 3 Reading and Group Discussion	30 minutes
6.	Wrap up by facilitator	10 minutes

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### **Activity-1**

#### **Experience Sharing**

Close your eyes for two minutes and think about the best Social Investigation Report you have written. Share with the participants:

1. Why do you think it was the best?
2. What hurdles you had to face during preparation of the report?
3. What support did you receive from other persons/institutions?

### **Activity-2**

#### **Experience Sharing**

1. Have you ever seen a Child in Conflict with Law being reformed and rehabilitated with your involvement? Share the story.
2. How did you feel then and how do you feel now on sharing the story?

### **Activity-3**

#### **Reading for Group Discussion**

1. Atul 17 years is accused of kidnapping and raping a girl of 16 who is one year junior to him in school.
2. The girl was rescued by police at the Railway Station in the neighbouring town where she was living with Atul.
3. Atul is apprehended and produced before the Juvenile Justice Board. You being the concerned Probation Officer are informed of Atul's apprehension.

#### **Activity**

Plan what you will do to write out an excellent Social Investigation Report.

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**SHORT NOTE ON**  
**SOCIAL INVESTIGATION REPORT UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

*– Justice Manju Goel (Retd.)\**

*– Arlene Manoharan\*\**

**What is a Social Investigation Report and how it is prepared**

According to Sections 13(i) and 13(ii) of the Juvenile Justice (Care and Protection of Children) Act 2015, the Probation Officer has to be informed as soon as the child is apprehended. The purpose behind this provision is to enable the Juvenile Justice Board to get a glimpse of the social circumstances of the child before it, before any order regarding bail or of any other nature is passed. The Probation Officer gives his inputs in the form of a Social Investigation Report. The Social Investigation Report is the primary responsibility of the Probation Officer, though it can also be prepared by other functionaries like the Child Welfare Officer or Social Worker, if the Probation Officer is not available, as provided for under Section 8 (3) (e).

A statutory form is prescribed for making the report. But only the summary of the work and findings of the Probation Officer can be given in the form. The form cannot contain the entire investigation done by the Probation Officer. The report in that form has to be submitted only after the investigation is complete.

What kind of investigation does the Probation Officer need to carry out? One can gather the meaning and purpose of the report from the name itself. Other sources of the meaning can be the form provided for passing the order asking for a Social Investigation Report, the form in which the report has to be submitted (Annexures i & ii) as well as provided under the section 13 (i) & (ii). The word ‘investigation’ is important to understand. It is not a simple ‘interview’ of the child or the family. There is an element of investigation which means going beyond the apparent, personally visiting the child’s home and school (if any), building rapport with the child and gaining a deeper understanding of his situation, his needs, his problems, cross checking various sources and noticing the contradictions in information received from various sources and identifying the truth from such data. The social investigation is not for discovering evidence regarding the alleged offence. The focus of the social investigation is the ‘child’ in order to identify and understand the circumstances of the child in question that may have led to the alleged crime. The aim of this investigation is to enable the Board to understand whether there are any grounds for denying bail (as per the proviso to Section 12), and the kind of orders that it may pass that would enable the child to reform and re-integrate into the community (which includes the kind of services the State needs to provide through the Individual Care Plan). The investigation is also valuable in enabling the Board to consider potential mitigating factors while determining the final orders. Mitigating circumstances do not justify or excuse an offence but may help to reduce the severity of the final order. It has been explained in the session on ‘Understanding a Child in Conflict with Law’ that many factors put together, explain the child’s behaviour on a given occasion. Social investigation involves finding out all those factors. Further the circumstances that the Juvenile Justice Board (Board for short) has to take into account while passing the order of disposition are also factors that the Social Investigation Report needs to contain. These include specific need for supervision or intervention, emotional, physical, social, economic factors of the child.

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Clause (ii) of Section 13 (i) of the Act requires the Probation Officer to submit a report within two weeks of being informed of the child's apprehension regarding "the antecedents and family background of the child and other material circumstances likely to be of assistance to the Board while making the inquiry".

The form for directing an inquiry requires a Probation Officer to report the "social and family background" of the child. Further it directs the Probation Officer to consult experts in child psychology, child psychiatric treatment or counselling for their expert opinion if necessary and to submit their opinion along with the Social Investigation Report. In addition, it calls for information on the character and social antecedents of the child.

Only after the Probation Officer has fulfilled the requirements mentioned in sections 13(i) and (ii) of the Act and the order directing the inquiry, the Probation Officer will be ready to report using Form 6 of the Juvenile Justice (Care and Protection of Children) Model Rules of 2016, prescribing the format of the inquiry report. The form has three parts. The first part deals with the 'family' details. On the first look, this part may appear only as a factual data, but on closer scrutiny, it shows several analytical aspects. For example, "attitude towards religion" or "relationship among family members" are more analytical than factual.

The second part of the report deals with details about the child. It contains certain factual details *viz*, interests, employment details, if any, details of the education. But most of it is analytical evaluation - for example mental condition of the child. This evaluation cannot always be stated in a word or two. A child maybe of a stable mental condition while another maybe found to be different. As such, the Probation Officer needs to report what was not so usual or normal in the child's mental condition. Habits and interests maybe ascertained from the child and the family. But the child and family may not reveal such facts which they perceive as adverse. Hence, it may be necessary to take the opinion/information from the school, the peers and neighbours. For the other factors in the report, *viz*, outstanding characteristics, personality traits, influence of companions, attitudes towards school, teachers, classmates and vice versa the Probation Officer has to apply his mind and arrive at his own finding on the basis of information received from various sources. If the child was indeed working, his work record including reasons for leaving jobs or attitude towards employer, or peers and attitude towards discipline at home and child's reaction are all subjects which are matters of analysis. This part also includes brief description of the neighbourhood and possibly a report from the neighbour. The Probation Officer has to develop skills in interviewing the neighbour and others, without revealing information about the alleged crime, particularly given the obligation to protect the privacy of the child, and to prevent stigmatization.

The third part with the title "Result of Enquiry" is the most crucial part. The result will partly depend upon the data and analysis in the previous parts but for completing this part the Probation Officer will be required to do some more work. For example: The Probation Officer may base his/her report on the first four parameters, *viz*, emotional factors, physical conditions, intelligence, social and economic factors on the basis of the first two parts of the report. But the other parameters, *viz*, "Suggestive causes of the problems", "analysis of the case including reasons/ contributing factors for the offence" cannot be answered based on any superficial view. Further, in certain cases, experts in the field of medical science or psychology can be consulted. The final part requiring the Probation Officer to recommend regarding rehabilitation will mean analysing all the factors mentioned earlier and then deducing a conclusion and chalking out a plan for the reform, reintegration and rehabilitation of the child keeping in mind the principle of best interests of the child and the child's right to be heard - the participation principle. The Rules however provide for a separate form according to which the detailed

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Individual Care Plan is to be prepared, and so this section may only provide the essence of what needs to go into the same.

Can the Social Investigation Report be prepared in a sitting of a couple of hours with the concerned child or the family of the concerned child? The answer is in negative. To find out the deeply personal information required for such a report from a child and his family members takes great patience, skill and a considerable amount of time. However, the Probation Officer has only 15 days within which to submit a Social Investigation Report. It is therefore imperative that the Probation Officer develops competence in preparing a Social Investigation Report for each child that can stand the test of ‘evidence’ for an informed and individualized inquiry and recommendations for a child. The Probation Officer may have to spend the whole day in collecting all the information. It may mean more than one visit to the family of the child alleged to be in conflict with law and others who must be interviewed and consulted before making the report. If all the work of the Probation Officer has to be documented, the Probation Officer must keep a diary of the case recording therein all that he has done. In fact Rule 64 of the Model Rules of 2016 specifically provides that the probation officer should maintain a diary or register to record his day to day activities such as visits made by him, follow up done by him. The diary can be effectively used for recording the progress of the child at subsequent stages.

The data analysis and deductions in the report must be available for study and scrutiny by the Juvenile Justice Board/Children’s Court. Form 6 at best is the cover page of the report. The report should be a speaking document from which one can clearly make out how the Probation Officer has proceeded with the case and to what extent the report can be relied upon and put into effect.

### **IMPORTANCE OF A SOCIAL INVESTIGATION REPORT**

In Section 13 of the Act it is mentioned that the Social Investigation Report should contain information regarding “antecedents and family background of the child and other material circumstances likely to be of assistance to the Board for making the enquiry”. It is clear from this very section that the Social Investigation Report has to be of assistance to the Board or in other words the Board will consider the Social Investigation Report in making an enquiry. As such the importance of the Social Investigation Report cannot be over emphasized. It is by itself clear that the Board will have to look into the Social Investigation Report for passing an order or while making an enquiry into the alleged offence of the children in conflict with law.

Now we can see what different orders the Board can pass after viewing the Social Investigation Report. Section 18(i) prescribes that where the Board is satisfied on enquiry that a child below 16 years has committed a heinous offence or a child irrespective of age has committed a petty offence or a serious offence, “notwithstanding anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific needs for supervision on intervention, circumstances as brought out in the Social Investigation Report and past conduct of the child, the Board may, if it so thinks fit”.

- (a) *allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;*
- (b) *direct the child to participate in group counselling and similar activities;*
- (c) *order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;*
- (d) *order the child or parents or the guardian of the child to pay fine: Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;*

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- (e) *direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child's well-being for any period not exceeding three years;*
  - (f) *direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child's well-being for any period not exceeding three years;*
  - (g) *direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home”.*

Before passing any of these orders the Board has to take into account the nature of the offence, the specific needs of supervision and intervention, circumstances as brought out in the Social Investigation Report and past conduct of the child. Social Investigation Report itself should provide information about the nature of the offence, the specific need for supervision and intervention as well as the past conduct. If the Social Investigation Report is appropriately prepared it can be of immense help to the Board. This is because the Board can even allow a child found to have committed a serious offence to go home after advice or admonition by looking into the Social Investigation Report. Another very favourable order that can be passed in favour of the child is to direct the child to participate in group counselling and other similar activities. All the orders mentioned in Section 18 have to be passed keeping in view the best interest of the child. Therefore, the Social Investigation Report should provide all the information which may help the Board to pass an appropriate order in the best interests of the child.

Section 18(2) of the Act empowers the Board to pass certain orders in addition to the orders listed above. These include orders to attend school, to attend vocational training centres, to attend therapeutic centres, prohibiting a child from visiting or frequenting or appearing at a specified place or undergo a de-addiction program. A vigilant Probation Officer can provide the appropriate inputs for passing such orders. Thus the Probation Officers have to appreciate the immense expectations the legislature has from them, and the vital role such social investigation can play in impacting the life of the child and his/her family.

With the new Act coming into force, a category of children falling in the age group of 16-18 years and alleged to have committed heinous crime has been created. Section 15 prescribes that if a heinous offence is committed by a child who has completed the age of 16 years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such an offence, his ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence and may pass an order in accordance with the provisions of Section 18(3) - including transferring the child to the Children's Court for trial as an adult. This order has to be passed within a period of three months. By then the Social Investigation Report will be with the Board, as the Probation Officer is required to submit the same within 15 days of the date of the child being produced before the Board for the first time. The section also says that the Board may take the assistance of an experienced psychologist, or psycho-social worker or other experts. Now this is an enabling provision and therefore, the Court may or may not take the assistance of an experienced psychologist and psycho-social worker. Further in many places the assistance of an experienced psychologist and psycho-social workers may not be available at all. In this situation the Board may

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have to entirely depend upon the Social Investigation Report. An order under Section 15 is something very serious in as much as a child sent to the Children's Court for trial according to the law in force will face all the consequences of the criminal law as does an adult. Hence the Social Investigation Report has to be prepared with this seriousness in mind. The Probation Officer who is of the view that there is need for further expert opinion/assessments in such cases, should therefore place his concerns in writing, making a specific recommendation for further social investigation. Where such experts are not available, the Probation Officer may identify experts in other districts and also recommend that the child be escorted there to avail of the same. The Probation Officer should therefore ensure that every effort is made to enable a quality preliminary assessment, given that the findings from this could be the basis of the decision by the Board to transfer such children to the adult criminal justice system.

### **Social Investigation Report and Individual Care Plan**

The Board as well as the Children's Court have to include an Individual Care Plan in the final order of disposition and hence the Board and the Children's Court have to craft out the Individual Care Plan.

Section 8(3) of the Act prescribes the functions and responsibilities of the Board. At clause (h) of Section 8(3) we find the mention of the Individual Care Plan. The Board, as per this provision is required to include an Individual Care Plan for the child's rehabilitation including follow up by the Probation Officer or District Child Protection Officer or member of NGO as maybe required. Now the final order of disposition which the Board may pass under Section 18(1) requires the Board to take into account the circumstances as brought out in the Social Investigation Report. When the two provisions are read together it means that whatever be the order of disposition that may be passed under Section 18(1) of the Act the same will also include an Individual Care Plan based, inter alia, on the Social Investigation Report. Rule 11 (3) of the Model Rules of 2016 specifically provides that all dispositional orders passed by the Board shall necessarily include an individual care plan for the child in conflict with law. In view of the above legal provision it is clear that the Individual Care Plan would be a part of the final Judicial Order and the Social Investigation Report will inform the same. The Social Investigation Report is for guidance of the Board. The Board cannot be bound by whatever the Probation Officer gives in the concluding part of the Social Investigation Report. However, a Social Investigation Report written after due effort and care will have a great persuasive value for the Board and the Children's Court.

The first Social Investigation Report has to be prepared within 15 days of the child's apprehension. However, this does not mean that the Board cannot call for Social Investigation Report at subsequent stages. As time lapses, the circumstances change. Thus if the final disposition order is passed after lapse of a long time of the first Social Investigation Report, the Board may call for a fresh Social Investigation Report before passing the order. The Individual Care Plan becomes a legally enforceable order on becoming a part of the Judicial Order. The Probation Officer's report is the most important guiding factor for the Individual Care Plan. If the Probation Officers are duly trained and they are motivated and inspired to play the role assigned to them by the Act, eventually it maybe the Probation Officer's suggestion which would get converted into a Judicial Order of Individual Care Plan. Therefore, for the purpose of the present training the Probation Officers are deemed to be the persons who prepare the Individual Care Plan. The Probation Officer should therefore fully be responsible to submit an appropriate report to the Juvenile Justice Board and may fall back upon the report to make an Individual Care Plan.

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**The following are the essential Approaches and Attitudes that a Probation Officer needs to have for effective Social Investigation**

1. Balanced Approach, balancing the needs and interests of the child alleged/found to be in conflict with law, those of the victim of the child's offence, if any, and of the community as a whole, while keeping the best interests of the child as a primary consideration.
2. Positive attitude towards children alleged and found to be in conflict with law, recognizing that they are vulnerable children and adolescents capable of reform.
3. Rights Based Approach: Recognize that children in conflict with law are citizens in their own right, and have a right to services that enable care, protection, development, treatment, rehabilitation and re-integration, as provided for in the Preamble, JJ Act.
4. Non-judgemental attitude
5. All orders and actions in the Juvenile Justice System must be guided by the best interest of child
6. Irrespective of the allegations against the child, the Social Investigation Report will be on the basis of the fundamental principle of "presumption of innocence" of the child, irrespective of the allegations/charges against him.

**DO'S AND DON'TS FOR AN EFFECTIVE SOCIAL INVESTIGATION REPORT**

**Do's**

1. The Probation Officer has to manage his/her time efficiently so that he/she has the time needed to prepare a quality Social Investigation Report.
2. Every child is unique and has the right to a fair legal proceeding, which means that all relevant information that is required by the Juvenile Justice Board for a fair and just order, is submitted to the Juvenile Justice Board. The Probation Officer should treat this particular role with concern and caution like a doctor assessing and diagnosing the health concern of a child.
3. The Probation Officer should provide documentary or other evidence to support the observations and recommendations made in a Social Investigation Report.
4. The Probation Officer should visit the home of the child, and the place where the child has been residing (if he is not residing at home), in order to get first-hand information about the life that the child has been leading, and other details required in the Social Investigation Report.
5. The Probation Officer should approach the Juvenile Justice Board and/or the District Child Protection Unit with concerns about not being able to perform his/her role effectively, like asking for assistance to address barriers or challenges that he/she may be facing. The Probation Officer is responsible and accountable for the information submitted in the Social Investigation Report, and so he/she needs to ask for the requisite support needed to do the job effectively.
6. The Probation Officer must pay special attention to the cases of children who are alleged to have committed heinous crime. The law has very serious implications on the lives of these children, and it is for the Probation Officer to ensure that comprehensive evidence, backed with thorough observations and recommendations are made for every child, but more so for these children, who could be denied the benefits of the Juvenile Justice Act 2015, for want of adequate background information.

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7. The Probation Officer should develop the skills needed to communicate effectively with children and adolescents in conflict with law. Though this is a challenging task, the Probation Officer can make deep impact on their lives, bringing hope, positivity and concrete changes through counselling and preparing an Individual Care Plan to enable rehabilitation and social re-integration.
  8. The Probation Officer should develop the confidence needed to defend the submission made to the Juvenile Justice Board in the form of the Social Investigation Report. The Probation Officer needs to advocate for the best interests of the child, in the case that is being handled, as the Probation Officer is an officer of the court. The child's advocate may represent the wishes of his/her client, even filing an application asking for bail, when it may not be in the interest of his/her client, whereas the duty of the Probation Officer is to bring to the notice of the Juvenile Justice Board, any factors that should be considered to deny bail, as per the Proviso to Section 12, Juvenile Justice Act, 2015.

**Don'ts**

1. The Probation Officer should not copy-paste information from the Social Investigation Report that he/she might have prepared for children who have a similar background to the one that is being currently worked upon. Every child is unique, and has needs and concerns that require to be addressed by the orders of the Juvenile Justice Board and the services provided by the State to enable effective implementation of the Juvenile Justice Act, 2015.
2. The Probation Officer should not harm the child or members of his family by using stigmatizing words such as accused, thief, rapist, etc.

The Probation Officer should not disclose the contents of the Social Investigation Report to anyone except the Board/Children's Court since it is a confidential document.

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**FORM-5**  
**[Rule 10(2)]**  
**ORDER OF SOCIAL INVESTIGATION REPORT**

FIR No.....

U/Sections.....

Police Station.....

To

Probation Officer/ Person in-charge of Voluntary or Non-Governmental Organization

Whereas \_\_\_\_\_ (Name of the child), son/daughter of \_\_\_\_\_ age \_\_\_\_\_  
residing at \_\_\_\_\_ has been produced before the Board.

You are hereby directed to enquire into the social antecedents, family background and circumstances  
of the alleged offence by the said child and submit your social investigation report on or before  
\_\_\_\_\_ or within such time as allowed to you by the Board.

You are also hereby directed to consult an expert in child psychology, psychiatric treatment or  
counselling for their expert opinion if necessary and submit such report along with your Social Investigation  
Report.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

**(Signature)**  
**Principal Magistrate/ Member**  
**Juvenile Justice Board**

**FORM 6**  
**[Rules 10 (9), 11 (2), 64(1), 64(3)(i)]**  
**SOCIAL INVESTIGATION REPORT**  
**FOR CHILDREN IN CONFLICT WITH LAW**

Sl. No.....

Submitted to the Juvenile Justice Board..... (address).

Probation Officer/ Voluntary/Non- Governmental Organization..... (Name of the person)

FIR No.....

Under sections.....

Police Station.....

Nature of offence alleged: Petty  Serious  Heinous

1. Name.....

2. Age/Date/Year of birth.....

3. Sex.....

4. Caste.....

5. Religion.....

6. Father's Name.....

7. Mother's Name.....

8. Guardian's Name.....

9. Permanent Address.....

10. Landmark of the address.....

11. Address of last residence.....

12. Contact no. of father/mother/family member.....

13. Whether the child is differently abled: Yes/No

- (i) Hearing Impairment
- (ii) Speech Impairment
- (iii) Physically disabled
- (iv) Mentally disabled
- (v) Others (please specify)

14. Family Details:

S.No	Name and Relationship)	Age	Sex	Education	Occupation	Income	Health status	History of Mental Illness (if any)	Addictions (if any)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

15. If the child or person is married, name, age and details of spouse and children:

.....

.....

16. Relationship among the family members:

i.	Father & mother	Cordial/ Non cordial/ Not known
ii.	Father & child	Cordial/ Non cordial/ Not known
iii.	Mother & child	Cordial/ Non cordial/ Not known
iv.	Father & siblings	Cordial/ Non cordial/ Not known
v.	Mother & siblings	Cordial/ Non cordial/ Not known
vi.	Child & siblings	Cordial/ Non cordial/ Not known
vii.	Child & grandparents (paternal/maternal)	Cordial/ Non cordial/ Not known

S. No.	Relationship	Nature of Crime	Legal status of the case	Arrest if any made	Period of confinement	Punishment awarded
1.	Father					
2.	Step father					
3.	Mother					
4.	Step mother					
5.	Brother					
6.	Sister					
7.	Others (uncle/ aunty/ grandparents)					

- 
18. Attitude towards religion of child and family.....
19. Present living conditions .....
20. Other factors of importance if any.....
21. (i) Habits of the child (Tick as applicable)

**A**

- a) Smoking
- b) Alcohol consumption
- c) Drug use (specify)
- d) Gambling
- e) Begging
- f) Any other

**B**

- g) Watching TV/movies
- h) Playing indoor/ outdoor games
- i) Reading books
- j) Religious activities
- k) Drawing/painting/acting/singing
- l) Any other

ii) Extra-curricular interests.....

iii) Outstanding characteristics and personality traits.....

22. Child's opinion/reaction towards discipline in the home.....
23. Employment Details of the child, if any.....
24. Details of income utilization and manner of income utilization.....
25. Work record (reasons for leaving vocational interests, attitude towards job or employers).....
26. The details of education of the child:
- i) Illiterate                      VI      Standard but below      VII Standard
  - iii) Studied above              VIII      Standard but below      IX Standard
  - ii) Studied up to V Standard    X      Standard
  - iv) Studied above
  - v) Studied above

27. Attitude of class mates towards the child.....

28. Attitude of teachers and classmates towards the child.....

29. The reason for leaving School (tick **Yes/No** as applicable)

- i) Failure in the class last studied
- ii) Lack of interest in the school activities
- iii) Indifferent attitude of the teachers
- iv) Peer group influence

- 
- v) To earn and support the family
  - vi) Sudden demise of parents
  - vii) Bullying in school
  - viii) Rigid school atmosphere
  - ix) Absenteeism followed by running away from school
  - x) There is no age appropriate school nearby
  - xi) Abuse in school
  - xii) Humiliation in school
  - xiii) Corporal punishment
  - xiv) Medium of instruction
  - xv) Others (pl. specify)
30. The details of the school in which studied last:
- i) Corporation/Municipal/Panchayat
  - ii) Government/SC Welfare School/BC Welfare School
  - iii) Private management
  - iv) School under NCLP
31. Vocational training, if any.....
32. Majority of the friends are
- i) Educated
  - ii) Illiterate
  - iii) The same age group
  - iv) Older in age
  - v) Younger in age
  - vi) Same sex
  - vii) Opposite sex
  - viii) Addicts
  - ix) With criminal background
33. Attitude of the child towards friends.....
34. Attitude of friends towards the child.....
35. Observations of neighbours towards the child.....
36. Observations about neighborhood (to assess the influence of neighborhood on the child).....
37. Whether the child has been subjected to any form of abuse, if applicable: **Yes/No**

S.No	Type of Abuse	Remarks
1.	Verbal abuse – parents/ siblings / employers / others, (pl. specify)	
2.	Physical abuse(pl. specify)	
3.	Sexual abuse parents/siblings/ Employers/others (pl. specify)	
4.	Others (pl. specify)	

38. Whether the child is a victim of any offence: Yes/No
39. Whether the child is used by any gangs or adults or group of adults or has been used for drug peddling: Yes/No
40. Does the child has tendency to run away from home, give details if any: Yes/No
41. Circumstances of apprehension of the child.....
42. Alleged role of the child in the offence.....
43. Reason for alleged offence:
- (i) Parental neglect
  - (ii) Parental overprotection
  - (iii) Parents criminal behaviour
  - (iv) Parents influence (negative)
  - (v) Peer group influence
  - (vi) Bad habits (to buy drugs/alcohol)
  - (vii) Others (pl. specify)
44. Whether the child has been apprehended earlier for any offence, if yes give details including stay in a child care institution Yes/ No
- .....
45. Previous institutional/case history and individual care plan, if any:
46. Physical appearance of the child:
47. Health condition of the child (including medical examination report, if applicable)
48. Mental condition of the child:
49. Any other remark

### RESULT OF INQUIRY

1. Emotional factors .....
2. Physical condition .....

- 
3. Intelligence .....
  4. Social and economic factors.....
  5. Suggestive causes of the problems.....
  6. Analysis of the case, including reasons/contributing factors for the offence
  7. Opinion of experts consulted.....
  8. Recommendation regarding rehabilitation by Probation Officer/Child Welfare Officer  
.....

**Signature of the Probation Officer/ Child Welfare Officer/ Social Worker**  
**Stamp and Seal where available**

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**TRAINING MODULE FOR LEGAL SERVICES LAWYERS AND PROBATION  
OFFICERS ON RE-INTEGRATION AND REHABILITATION  
UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)  
ACT 2015 WITH REFERENCE TO JUVENILES IN CONFLICT WITH LAW**

– Arlene Manoharan\*  
– Geetanjli Goel\*\*

**SESSION PLAN**

**Objectives**

1. To enable an understanding of the juvenile justice system with reference to the rehabilitative goals.
2. To enable an understanding of the basic concepts in ‘Rehabilitation’ and ‘Social-Re-integration,’ in the context of children in conflict with law
3. To enable the Probation Officers to develop skills in ensuring rehabilitation and social-re-integration.

**Expected learning outcomes**

1. The Probation Officers and Lawyers would gain conceptual clarity on rehabilitation and social-re-integration of children in conflict with law.
2. The participants would acquire knowledge of the different rehabilitative techniques that are laid down in the Juvenile Justice Act of 2015.
3. The participants would be able to identify the different rehabilitative mechanisms that can be suggested by them in the plan for rehabilitation of the children in conflict with law.
4. The participants would understand that rehabilitation is to be taken up at every stage of the inquiry in respect of the child.

**Programme**

1. **Introduction and Lecture:** 20 minutes  
The resource person will introduce the concept of rehabilitation and reintegration and familiarise the participants with the different rehabilitative mechanisms set out in the Act and how they can enable the rehabilitation of the children in conflict with law and their reintegration in the society.
2. **Group Discussions: Presentation and whole group discussions** 40 minutes
  - a. Group discussion 15 minutes
  - b. Presentation and whole group discussion 30 minutes

Participants will be divided in groups of 4-6. Each group will be asked to find the answers to the questions in one of the readings of the cases. Each group will present its views to the

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whole group for a whole group discussion. The resource person will provide the points missed by the participants and will present a wholesome view of the topics.

**3. Concluding Remarks**

10 minutes

The remarks can be made at the end by the trainer or by one of the participants or by the dignitary, if any, invited to inspire the participants.

**Training methods and Tools**

1. Lecture with or without PPT
2. Group Discussion & presentation

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### **Reading for Group Discussion I to IV**

The prosecution case is that Anil who is aged 17 1/2 years, along with 5 others had raped a woman who was 22 years old and had also brutally beaten her which resulted in her death after 15 days of the incident.

On interviewing Anil you find the following facts:

- 1) Anil comes from a very poor family and his father is mentally unsound. He has 4 younger sisters to look after.
- 2) He had run away from home when he was 10 years old and thereafter had been doing odd jobs here and there.
- 3) He had no place to stay and prior to the alleged offence he was working as a helper in a bus. He used to sleep in the bus itself.
- 4) He states that he had worked as a helper with one of the adult accused who owed him some money. On the day of the alleged incident he had gone to take his money from the adult accused.
- 5) He states that the adult accused asked them to accompany him for a trip in the bus in which the incident took place and he went with them thinking he was going on a joy trip in the city.
- 6) He did not beat or rape the woman but was present at the time of the offence.
- 7) He had no past criminal record.
- 8) He had studied till class V.

### **Questions for Group Discussion**

1. What are the kinds of rehabilitative services that are required for the child?
2. What kind of a rehabilitation plan would you suggest for the child?

#### **GROUP I**

Group I would be required to prepare a plan for the child immediately on his production before the Board.

#### **GROUP II**

Group II would be required to prepare a plan for the child as if he is sent to the Place of Safety.

What are the points to be borne in mind for effective rehabilitation of the child'?

#### **GROUP III**

Group III would be required to prepare a plan for the child as if he has been found to be involved in the offence.

What are the indicators you, as a Probation Officer can use to monitor the child's progress?

#### **GROUP IV**

Group IV would be required to prepare a plan as to how the follow up would be done and to prepare a report that could be submitted to the Children's Court after the period of the child's stay in the Place of Safety is over but he has still not completed the total term of stay ordered by the Children's Court.

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The Group would also list the indicators that demonstrate that the child has ‘undergone reformative changes’ and that he ‘can be a contributing member of the society’.

**Reading for Group Discussion V**

Sita is aged 17 years and it is alleged that she had beaten a small child aged 6 months to death. On interviewing Sita, you find the following facts:

1. Sita was married off when she was 14 years old to a 22 years old man.
2. When she was 16 years old, her husband got married to another woman.
3. A child was born to her husband from his second wife. Everyday her husband would go out with his second wife leaving Sita to look after the child.
4. The child kept crying and Sita could not control the child.
5. Sita was not well and the sound of the child crying infuriated her so she beat the child resulting in his death.

**Questions for Group Discussion**

1. What are the kinds of rehabilitative services that are required for the child?
2. What kind of a rehabilitation plan would you suggest for the child?

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**SHORT NOTE ON**  
**RE-INTEGRATION AND REHABILITATION UNDER THE JUVENILE JUSTICE**  
**(CARE AND PROTECTION OF CHILDREN) ACT 2015**

– Arlene Manoharan\*  
– Geetanjli Goel\*\*

**A. Introduction**

A.1 Two words frequently used in the Juvenile Justice discourse are reintegration and rehabilitation. These two words have not been defined in the Juvenile Justice (Care and Protection of Children) Act 2015 or the Juvenile Justice Act of 2015. However, the ultimate objective of the Act is rehabilitation and social re-integration of the children and institutionalization of children should be the last resort. This is clear from the Preamble of the Act as per which it is:

*“An Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto.”*

This is reiterated through the Fundamental Principles contained in section 3 of the Act through the principle of best interest, principle of family responsibility, positive measures, principle of institutionalization as a measure of last resort and the principle of repatriation and restoration. Best interest will mean general well-being which would include the child's development of personality without compromising his social cultural religious or spiritual needs. The need for a separate legislation dealing with children also arises from the recognition that the children, even if they have are involved in an offence can be re-integrated in the society and can become full, constructive members of the society.

Various international conventions have also from time to the time emphasised the goal of rehabilitation of children.

i) *The UN Standards Minimum Rules for the Administration of Juvenile Justice* or the Beijing Rules (1985) provide that depriving a child/ juvenile of his liberty should be used as the last resort and that too, for the shortest period; and emphasize the importance of rehabilitation demanding necessary assistance in the form of education, employment or shelter to be given to the child and for the fulfilment of these requirements there is a need to call upon volunteers, voluntary organizations, local institutions and other community resources.

ii) *Convention on the Rights of the Child* (1989) also lays emphasis on rehabilitation providing essential services for prevention, recovery and rehabilitation of children including basic health, education and protection.

iii) *The UN Guidelines for the Prevention of Juvenile Delinquency* or the Riyadh Guidelines (1990) adopt a child centred orientation and put stress on preventive programme. They emphasise on social reintegration, featuring social and economic strategies that involve almost every social area such as family, school and community, media, social policy, legislation and Juvenile Justice Administration and that efforts should be made towards re-uniting the

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child with its family because family is regarded as the first place where the child is safest and development takes place in all aspects.

iv) *SAARC Convention on Regional Arrangements for Promotion of Child Welfare* adopted in 2002 recognizes the family as the best place for the well-being of children and lays down the primary objective of promoting the child's reintegration in the family and society.

In line with the various international conventions, the Act not only seeks to provide care and protection to the children but aims towards their *rehabilitation*. The primary aim of rehabilitation is to help the children in restoring their dignity and to reintegrate them into the society. Rehabilitation is an on-going process as every child varies from the other and as such various mechanisms are provided including different types of institutions. Rehabilitation assumes greater importance in case of children in conflict with law as it is a key factor in preventing children falling back into crime. Any programme of rehabilitation has to ensure that the child is re-integrated into the family and the community with dignity, and that all his rights are respected and protected.

A.2 The Probation Officers have a central role to play if the objective of re-integration of the children in conflict with law in the society is to be achieved. This is because they are to be associated with the child from the moment a child is 'apprehended' by the police for alleged involvement in an offence. Even the police officers i.e. the Child Welfare Police Officer of the police station or the special juvenile police unit to which the child is brought, as soon as possible after apprehending the children are bound to inform the Probation Officer for preparation and submission within two weeks to the Board, a social investigation report containing information regarding the antecedents and family background of the child and other material circumstances likely to be of assistance to the Board for making the inquiry (section 13 of the Act of 2015). The information so gathered by the Probation Officers and submitted before the Board is crucial for determining the future course of action for the child.

A.3 The Act of 2015 emphasises the role of Probation Officers in the process of rehabilitation of the child right from the stage of conception of a plan for rehabilitation of the child to its implementation. Further they are to be involved at every step, whether the child is placed in an observation home or is released on bail (when the child is produced before the Board, the Board can release the child on bail or send the child to an observation home or place the child under the supervision of a probation officer or under the care of any fit person – section 12 (1) of the Act of 2015) and even after the child has been found to be involved in the offence. While the probation officers hold the key to success of a rehabilitation plan for the children in conflict with law, it is to be remembered that rehabilitation is not a matter of charity, but the services integral to the rehabilitation process are essentially in the nature of entitlement of the children in conflict with law, irrespective of the nature or gravity of their offence.

### **COMMON MYTHS ABOUT RE-INTEGRATION?**

1. Myth 1: Re-integration with the family of origin is always in the best interest of every child in conflict with law
2. Myth 2: Rehabilitation is a complex and costly affair, with little visible outcomes.
3. Myth 3: Children who are recidivists, do not really care, and do not need much help. They are incorrigible and need to be treated as adults in the adult criminal justice system.

1. *Clarification about Myth 1: This is not true. In some cases, the parent/s or other family members in a joint family situation may have a very negative influence on the child encouraging and supporting them to commit crime. In other cases, children are*

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*being exploited, abused or neglected, making the family unsafe for the child to live. There may be situations where the children are used to commit offences by the family members.*

2. *Clarification about Myth 2: Though effective rehabilitation is indeed costly in terms of human resources, the length of time, and perhaps even financial resources, the short term and long term impact on children, their families, victims of their crime (if any) and the wider community is very high, even if it is not always visible.*

3. *Clarification about Myth 3: This is a myth, and needs to be corrected, as recidivists are often at greater risk of being targeted by adult gangs and/or by the police, as there are times when false cases are foisted on them.*

## **B. What is rehabilitation and re-integration**

B.1 The Act uses various terms such as rehabilitation, social re-integration, repatriation and restoration. However, none of the said terms have been defined in the Act. There is even no generally accepted definition of the said terms which is available and often the said terms are used inter-changeably. ‘Rehabilitation’ is broadly defined as ‘restoring someone to health or normal life by training and therapy after detention, addiction, or illness’. On seeing the provisions of the Act one can generally feel that reintegration and rehabilitation mean a child’s return to the society as healthy and useful individuals capable of sustaining themselves thereby earning by lawful means and providing for their basic necessities.

B.2 Childhood/Adolescence is a period of growth, during which all children are to be provided ‘all they need to enable them to grow to their full potential. In the context of children in conflict with law, rehabilitation assumes greater importance to enable the children to reintegrate in the society and grow to their full potential as constructive citizens of the country. The children in conflict with law however, require to be handled with extra sensitivity and skill, to enable them to reform, prevent recidivism, and to heal from trauma which they may also undergo as a result of the offence.

B.3 Rehabilitation is essentially based on the doctrine of *parens patriae* i.e. the State acts as the guardian or parents of the children. Often children in conflict with law are even more vulnerable than children in need of care and protection and are to be provided ‘care, protection, development, treatment and social-reintegration by the state’, in ‘their best interest’ and ‘for their rehabilitation’ as a matter of right as reflected in the Preamble of the Act, 2015.

B.4 ‘Care’ for children in conflict with law encompasses use of humane, dignified and child friendly language, respecting and addressing the needs of children in conflict with law as per their developmental stage and unique circumstances, being sensitive to their feelings, aspirations, moods, and anxieties and enabling appropriate responses to meet underlying needs, etc. and responsiveness to their needs and risk factors.

B.5 ‘Protection, involves not just ensuring that the ‘*person*’ of the child is protected, but that ‘*all rights of the child in the juvenile justice system*’ are also protected. Section 2 (21) of the Juvenile Justice Act, 2015 defines “child care institution” by referring to all statutory homes including the Observation Homes, Special Homes and Place of Safety as those ‘providing care and protection to children, who are in need of such services’. Further the Juvenile Justice Board has to ‘ensure that the child’s rights are protected throughout the process of... rehabilitation’ (section 8 (3) (b) of the Act of 2015) and the Children’s Court has to ensure that ‘there is no ill-treatment to the child in any form’ in a Place of Safety (section 19 (4) of the Act of 2015).

B.6 ‘Treatment’ as a component of rehabilitation of children in conflict with law implies that the children need to be treated for the harm caused by conditions such as broken homes, jailed family

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members, abuse either physical or sexual to which the child might have been subjected and substance addictions. Treatment may be required for a wide range of illnesses, disorders, or trauma and the Act of 2015 provides for treatment to be made available to children through placement in an Approved Place or Fit Facility (sections 92 and 93 of the Act of 2015).

B.7 ‘Development’ to one’s fullest potential is an essential ingredient in enabling a child in conflict with law to live a life of dignity. The right to education is a vital means by which children can access all other rights and the RTE Act, 2009 is available to all children, whether or not they are involved in crime.

B.8 ‘Reintegration’ is the effective re-entry of a child back into the community following the time spent in a Child Care Institution. However, a comprehensive reintegration process typically begins after the child has been found to be involved in the offence, continues through the period when the child remains in a Child Care Institution till the period of actual release into the community. A reintegration programme should take into account the history of the child concerned. It should be kept in mind that one programme or approach would not work for all children and that there is need to work in a comprehensive and holistic manner without overemphasis on one risk factor; and that different individuals take different skills or resources from the same programme and that the results may vary. Reintegration is a process not an event, ranging from re-unifying a child in conflict with law with his family to a more comprehensive process over a period of time that results in deeper re-integration into the family, school and the wider community, (at all levels - psycho-socio-economic-educational), which in turn contributes to a sense of belongingness, mutuality and citizenship. Re-integrating a child into the community, (where the child cannot be placed back with the family/extended family in his best interest) may also require empowering the child to live independently/with peers and re-integrating into the wider society elsewhere, not necessarily his own immediate local community.

B.9 Any process of rehabilitation and re-integration thus involves children, families and communities, and is internationally recognized as a safer and more effective approach to juvenile crime than punitive measures. Successful rehabilitation of a child in conflict with law depends much on the interventions made to strengthen the family such as individual counselling of family members to develop a sense of confidence that the family is willing and able to accept the child back home, despite him coming into conflict with law, education on positive parenting and conflict resolution, family therapy, referral to needed services, breaking the isolation experienced by families of children in conflict with law through community intervention, etc. Similarly, the community has to be taken into confidence as it ‘represents both a potential ally and a potential impediment’ in the process. The community may exhibit prejudice, hostility, resentment, rejection, anger and perhaps even violent reaction towards the child in conflict with law which may aggravate the child’s sense of fear, isolation or he may face stigma and discrimination. Hence the community needs to be involved to promote sensitivity and awareness, to develop empathy, and to grow into a support for the child and to encourage him in his journey towards rehabilitation. While the State is the ultimate duty-bearer in ensuring effective re-integration of children in conflict with law with their families and communities, the responsibility and obligation to protect children and promote their reintegration falls on everyone.

B.10 In order to prepare the children for re-integration in the society, they need to be provided with psychological, social and material assistance and with opportunities to strengthen links with the community. For this the background of the child and the unique needs have to be ascertained and the same are often available through the Social Investigation Report as well as interaction with the family, friends and other personnel who have interacted with the child when the child remained in a Child Care Institution. Special attention has to be paid to children who had been separated from their family such as runaway children, abandoned children. The feelings of the child and of the members of the family have also to be given due consideration.

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## **C. Indicators of a successful rehabilitation programme**

C.1 The key indicators of a successful rehabilitation programme could include the child:

- i. attending school/college regularly and faring well
- ii. developing positive relationships with family members
- iii. developing positive relationships with neighbours
- iv. demonstrating effective application of Life Skills
- v. being able to overcome shame and guilt and having a positive sense of self-worth
- vi. being positive about life
- vii. not exhibiting signs of anxiety, Post-Traumatic Stress Disorder, or other mental health concerns
- viii. not abusing substances, (if he had been doing so earlier)
- ix. having good peer support
- x. internalizing a sense of accountability and responsibility as a contributing citizen
- xi. not getting involved in any offence again.

On the basis of the above indicators, the probation officer would be in a position to assess the success of any rehabilitation plan. Further the risk factors that may have been identified for a child in conflict with law, at the time of preparing the Social Investigation Report, need to be reviewed to see whether or not those risks remain.

C.2 The success of any rehabilitation programme would depend on the skills of the probation officer such as in respect of counselling, developing a good rapport and professional trusting and caring relationship with the child; identifying the concerns the child may have (such as rejection by family/peers/community/school, fear of being alienated, fear of not being able to get employment and being dependent on parent/s who are already furious with him for destroying their family name), enabling the child to air grievances and addressing these, enabling the child to discuss matters concerning their sexuality, etc., in enabling the child to recognize his inherent strengths/talents, as well as areas for further growth, in ensuring continuity of care, engaging with other stakeholders and the community, preparing the Individual Care Plan etc. In fact, the Individual Care Plan is the key to success of any rehabilitation and reintegration programme and if put to actualisation by proper planning and execution the end of reintegration and rehabilitation can be achieved.

## **D. Rehabilitation – institutional or non-institutional**

D.1 Rehabilitation of a child in conflict with law can be achieved through:

- i. Institutions which include Observation Homes, Special Homes, Place of Safety, After care organisation, or
- ii. Non-Institutional Alternatives such as Adoption, Foster care and Sponsorship.

The Act provides for both the alternatives and they are to be resorted to depending on what would be in the best interest of the child and would promote the rehabilitation of the child. The Fundamental Principle of Family Responsibility provides that the primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be while the Principle of institutionalization as a measure of last resort lays down that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. Studies

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show that long term institutionalization, rather than being beneficial can have negative effects on the children such as:

- Segregation and isolation from society
- Emotional deprivation
- Low self-esteem
- Physical abuse and trauma
- Anonymity and lack of personal attention
- Delays in development of the child.

Thus it becomes important to look for ways how children can be rehabilitated without having to resort to institutionalization and even in cases of children who are institutionalized how they can be reintegrated into the society at the earliest. However, rehabilitation can be and in fact must be carried out both within a Child Care Institution and even outside the institution.

D.2 Chapter VII of the Act of 2015 deals with rehabilitation and social reintegration. Section 39 of the Act of 2015 provides that rehabilitation and social reintegration of children shall be undertaken, based on the individual care plan of the child, preferably through family based care such as by restoration to family or guardian with or without supervision or sponsorship, or adoption or foster care. It further provides that for children in conflict with law, the process of rehabilitation and social integration shall be undertaken in the observation homes, if the child is not released on bail or in special homes or place of safety or fit facility or with a fit person, if placed there by the order of the Board.

D.3 Section 47 of the Act of 2015 provides that the State Government shall establish observation homes for temporary reception, care and rehabilitation of any child alleged to be in conflict with law, during the pendency of any inquiry under the Act.

D.4 Section 48 of the Act of 2015 provides that the State Government may establish special homes for rehabilitation of those children in conflict the law who are found to have committed an offence and who are placed there by the order of the Juvenile Justice Board (JJB) made under section 18 of the Act.

D.5 Section 49 of the Act of 2015 also provides for setting up of place of safety which has been defined in section 2(46) of the Act of 2015 as any place or institution, the person-in-charge of which is willing to receive and take care of the children alleged or found to be in conflict with law, by an order of the Board or the Children's Court, both during inquiry and during rehabilitation after having been found guilty for a period and purpose as specified in the order.

D.6 The Act thus provides for establishment of three types of Child Care Institutions for children in conflict with law. Besides it also provides for recognition of a fit facility and a fit person i.e. any person fit to temporarily receive a child for care, protection and treatment of such child for a specified period (section 52 of the Act of 2015).

D.7 The importance that is attached to rehabilitation can be gauged from the fact that the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 provides for appointment of rehabilitation cum placement officer in all Child Care Institutions for the purpose of rehabilitation of children and the functions of the rehabilitation cum placement officer have been laid down in Rule 65 of the Model Rules of 2016 who is to maintain the rehabilitation card in Form 14. The purpose of the rehabilitation card is to monitor the progress of the child in the Child Care Institution, however the role of the probation officer in the process of rehabilitation would still be pivotal as it is for the probation officer to prepare the individual care plan.

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## E. Rehabilitative Services

E.1 Section 53 of the Act of 2015 provides for the services that should be available in institutions which are registered under the Act for the process of rehabilitation and reintegration of children. Apart from the primary requirement of food, etc., they include appropriate education including supplementary education, special education and appropriate education for children with special needs, skill development, occupational therapy and life skill education, mental health interventions, recreational activity, legal aid, referral services for education, vocational training, de-addiction, treatment of diseases where required, case management including preparation and follow up of individual care plan and providing the child documents like birth certificate and proof of identity. Section 53 (1) (xiii) refers to *'any other service that may reasonably be provided in order to ensure the well-being of the child, either directly by the State Government, registered or fit individuals or institutions or through referral services'* and as such it is for the Probation Officer to ensure the 'well-being' of every child, and to be pro-active in identifying and providing access to any additional service that may be required to achieve this goal, irrespective of the gravity of the offence that the child is alleged to have committed, or is found to have committed. The said services have been further detailed in Rules 29 to 38 of the Model Rules of 2016.

E.2 While section 53 of the Act of 2015 provides the services that should be available in institutions, such services would form part of any rehabilitation plan drawn up for a child whether in Child Care Institution or outside the Institution depending on the age, needs, ability, talent and interest of the child. A customized rehabilitation plan has to be drawn up for each child suited to his needs and context and involving a range of services and professional service providers, all working together to enable continuity of care till effective rehabilitation takes place, wherein a child lives with his family/extended family/fit person within the community with dignity. For this the probation officers need to identify specialized service providers who can provide the said services to the children and they must develop effective linkages for the same.

E.3 The Act of 2015 in section 44 makes provision for foster care but that is essentially in case of children in need of care and protection. However, there may be cases where the children in conflict with law may also be in need of care and protection. After the inquiry is over, the Juvenile Justice Board transfers them to the Child Welfare Committee which can then explore the possibility of placing the children in foster care including group foster care for their care and protection.

E.4 Section 45 of the Act of 2015 makes provision for sponsorship of children. The criteria for sponsorship includes where the mother is a widow or divorced or abandoned by family; where children are orphan and are living with the extended family; where parents are victims of life threatening disease; or where the parents are incapacitated due to accident and unable to take care of children both financially and physically. As such the Board may pass orders providing for sponsorship for children in conflict with law falling in any of these categories. In fact, sub-section (2) of section 45 provides that the sponsorship programme may provide supplementary support to families and to special homes to meet medical, nutritional, educational and other needs of the children, with a view to improving their quality of life. Rule 24 of the Model Rules of 2016 provides that the Juvenile Justice Board or the Children's Court may *suomotu* on an application received in that behalf, consider the placement of a child under sponsorship. Thus the benefit of sponsorship may be extended to children in conflict with law in appropriate cases with the objective of their rehabilitation and re-integration in the society.

E.5 Section 46 of the Act of 2015 makes provision for after-care in that any child leaving a Child Care Institution on completion of eighteen years of age may be provided with financial support in order to facilitate the child's re-integration into the mainstream of the society. Thus a child leaving an institution on the completion of eighteen years of age may be provided financial support. Rule 25 of the Model Rules of 2016 provides that the Juvenile Justice Board or the Children's Court may pass an order providing

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after care to any child who leaves the Child Care Institution till the age of twenty one years and in exceptional circumstances for two more years on completing twenty one years of age. The services provided under the after-care programme may include community group housing on a temporary basis, provision of stipend during the course of vocational training or scholarship for higher education and support till the person gets employment, arrangement for skill training and placement in commercial establishments, provision of counsellor to stay in regular contact with such persons to discuss their rehabilitation plans, provision of creative outlets for channelizing their energy, arrangement of loans and subsidies for such persons aspiring to set up entrepreneurial activities and encouragement to sustain themselves without State or institutional support. The Rule also envisages that the Probation Officer shall prepare a post release plan and submit the same to the Juvenile Justice Board or the Children's Court two months before the child is due to leave the Child Care Institution, recommending after care for such child as per the needs of the child.

E.6 Rehabilitation may involve only one of the above or may be a combination of various services available. What kind of a rehabilitation plan would be suitable for a child would depend on his needs, his abilities, his interests and ultimately what would be in his best interest and may not be dependent on the nature or gravity of the offence that the child is alleged to have committed. Moreover, it cannot be said that a plan drawn up for a child is a final plan and changes would have to be incorporated in the same depending on the circumstances of the child and the success of the plan that has been drawn up.

#### **F. Rehabilitation at various stages of the legal proceedings**

F.1 Section 39(2) of the Act provides that for children in conflict with law, the process of rehabilitation and social integration shall be undertaken in the observation homes, if the child is not released on bail, or in special homes or place of safety or fit facility or with a fit person. However, there cannot be any stage for taking up rehabilitation. It has to be an ongoing process and may be necessary in most cases. Even the children who are released on bail or are released on undertaking at the initial stage and do not go into any Child Care Institution may require rehabilitation. Measures for rehabilitation of the child have to be considered by the Juvenile Justice Board at every step of the inquiry in respect of the child. In fact, steps in this direction ought to be taken from the very day that the child is produced before the Board. There may be a situation where a child is addicted to drugs and clearly the rehabilitation for him cannot be postponed to a stage after the completion of the inquiry. The inquiry may take some months and it cannot be said that during the said period the child should be allowed to continue in the situation in which he was. Where a child is not involved in any useful activity there may be a need to start education or vocational training for him immediately so that he is usefully occupied. A lot can be achieved during the period the inquiry is in progress and in fact the developments of the said period can be an indicator for the individual care plan to be drawn up for the child.

1. On production of the child before the Board:
  - a) it may pass an order under section 17 (1) of the Act if it is satisfied on inquiry that the child brought before it has not committed any offence. However, there may be cases where there is no one to whom the custody of the child can be handed over or the child may appear to be in need of care and protection. In such cases the child can be referred to the Child Welfare Committee where the Child Welfare Committee will pass orders for the rehabilitation of the child.
  - b) It may release the child on bail but the Board may impose conditions regarding education, vocational training, employment or counselling in the best interest of the child. The Board may release the child under the supervision of a probation officer who shall have to ensure that steps are taken for the rehabilitation of the child.

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- c) It may send the child to the Observation Home or Place of Safety or place the child with a fit person or fit facility and also pass orders for rehabilitative services to be provided to the child or it may issue directions for the child to be treated for any addiction. In such cases where the child is sent to a Child Care Institution, the probation officer would have to draw up an individual care plan for the child including steps for rehabilitation of the child and would further have to monitor the implementation of the individual care plan.
2. Whenever the child is thereafter produced before the Board, it may review the progress of the child and issue necessary directions for continuation or modification of the rehabilitation plan in respect of the child.
3. When the inquiry is over:
- a) The Board may come to the conclusion that the child is not involved in any offence but even in such cases, the Board may not release the child if it is satisfied that there is no one to take custody of the child or if it appears that it would not be in the best interest of the child to release the child to the person claiming custody of the child. In such cases, the child may be referred to the Child Welfare Committee.
- b) Even if the child is found involved in any petty offence, the Board may pass orders for rehabilitation of the children. The Probation Officer, while submitting the Social Investigation Report or the Individual Care Plan needs to invest all necessary resources in ensuring that petty offenders get the services they require to prevent them from getting into situations where they then escalate into committing serious and heinous crime.
- c) Where the child is found involved in any serious offence, or a child below the age of sixteen years has committed a heinous offence, or a child aged 16-18 years has committed a heinous offence in respect of whom the inquiry is conducted by the Board, or the inquiry is conducted by the Children's Court as a Board, the Board or the Children's Court may pass any of the dispositional orders provided in section 18 of the Act and in addition pass orders for the child to attend school, attend a vocational training centre, attend a therapeutic centre or to undergo a de-addiction programme. The child may be sent to a special home or even a place of safety for providing reformatory services including education, skill development, counselling, behaviour modification therapy and psychiatric support during the period of stay in the special home or place of safety.
- d) The children aged 16-18 years alleged to have committed heinous offences and who are tried by the Children's Court are:
- i. To be housed in a place of safety and provided reformatory services including education, skill development, counselling, behaviour modification therapy and psychiatric support during the period of stay in the special home or place of safety. The Probation Officer has to monitor and evaluate the progress of the child and prepare an annual report of his progress in the place of safety for submission to the Children's Court (section 19(4) of the Act). The report is also required to ensure that there is no ill-treatment to the child in any form in the place of safety (section 19 (4) of the Act).
- ii. Where the child in conflict with law attains the age of 21 years and is yet to complete the prescribed term of stay, the follow up has to be done by the probation officer and the Children's Court would evaluate if the child has undergone reformatory changes and if the child can be a contributing member of the society. The Children's Court may decide to release the child on such conditions as it deems fit including appointment of a monitor.

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authority (who may be a probation officer as well) for the remainder of the prescribed term of stay and in such a case the monitoring authority shall maintain the rehabilitation card for the child.

If, however the child has failed the test of reformation, the child may be sent to jail for the remainder of the term (Section 20(2)(ii) of the Act). Thus, the success of the individual care plan could determine whether the child is released or is sent to jail. The probation

officer has also to be cautious to prevent bias and arbitrariness while making reports/recommendations to the Children's Court, particularly when dealing with cases of children from marginalized communities, those that have attracted high media attention, etc. Studies show that placement of children in adult prisons or jails compromises their basic safety, well-being, and their future ability to remain free of crime and to reintegrate. As such the role of the probation officer to try and rehabilitate the child is vital to prevent them from being subsequently transferred to the jail.

Thus at every stage of the legal proceedings, rehabilitative measures have to be directed for the child and the probation officer has to play a vital role in ensuring the success of the same.

F.2 The Act also provides that the child can be released from a special home on the report of a Probation Officer and be restored to the parents or guardian willing to educate and train the child for some useful trade or calling and to look after the child for rehabilitation (Section 97 of the Act).

F.3 There is no clear or definite end to the process of rehabilitation and reintegration and in fact it has to be an ongoing process. However, the closure of a case would occur only when the Board or the Children's Court is confident that the individual care plan has been implemented and the child is experiencing a sense of well-being and dignity.

#### G. **Role of lawyers in rehabilitation**

While essentially it is the Probation Officer who is to prepare the social investigation report, individual care plan and monitor the progress of the child, the lawyers have an important role to play in achieving the goal of rehabilitation and re-integration. When they come in touch with the children and their families, they can gather information which could be useful in developing a suitable rehabilitation plan for the child. Further they can educate the family and the child why certain measures are directed for the child and how they would be beneficial for the child. They can play an equally important role in ensuring the success of the rehabilitation plan as they can act as mentors for the children and their families and guide them so that the children and their families accept and follow the plans that are drawn up.

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**MODULE FOR TRAINING OF LEGAL SERVICES LAWYERS AND PROBATION OFFICERS ATTACHED TO THE JUVENILE JUSTICE BOARDS**  
**INDIVIDUAL CARE PLAN- WHAT AND HOW- UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

– Justice Manju Goel (Retd.)\*  
– Arlene Manoharan\*\*

**SESSION PLAN**

**Objectives**

1. To enable the Probation Officers to gain a deeper understanding of the Individual Care Plan as a legal tool for ensuring delivery of services by the State as provided by law, and for monitoring the progress made by a child in conflict with law on his/her journey towards rehabilitation and re-integration into the society.
2. To enable the Probation Officers to sharpen their skills in preparing an Individual Care Plan.
3. To enable the Probation Officers to sharpen their skills in monitoring the child's progress based on the Individual Care Plan.
4. To enable the Probation Officers to sharpen their skills in reporting the progress of the child based on the Individual Care Plan.

**Expected learning outcomes**

1. Participants would be able to understand and appreciate the value of the Individual Care Plan and therefore be motivated to prioritize this in their daily work schedules.
2. Participants would have learnt how to prepare more comprehensive, dynamic and effective Individual Care Plans to inform the interim and final orders of the Juvenile Justice Boards under the Juvenile Justice Act of 2015, as well as revision orders.
3. Participants would have developed skills in monitoring the progress of the child based on the Individual Care Plan, and to revise the Individual Care Plan based on their assessment of the evolving needs of the child.
4. Participants would have developed skills in reporting the progress of the child.

**Programme:**

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|---|------------|
| <b>1. Introduction</b>  | 10 minutes |
| <i>(The resource person will explain the concept of the Individual Care Plan)</i> |            |
| <b>2. Quiz/Questionnaire</b>  | 15 minutes |
| <b>3. Lecture with/without power point</b>  | 20 minutes |

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\* Former Judge, High Court of Delhi

\*\* Arlene Manoharan, MSW Fellow, Programme Head - Juvenile Justice, Centre for Child and the Law (CCL), National Law School of India University (NLSIU), Bangalore

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|---|------------|
| <b>4. Role play and exercise</b>                        | 15 minutes |
| <b>5. Whole group discussion led by resource person</b> | 50 minutes |
| <b>6. Recapitulation and concluding remarks</b>         | 10 minutes |

**Suggested training methodology**

1. Lecture with/without power point
2. role play
3. exercise
4. brain storming

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### **Activity-1**

#### **Quiz**

1. Whose duty it is to prepare an Individual Care Plan?
2. Where can a homeless child below 18 years on being released from Observation Home be sent?
3. What places and persons should the Probation Officer visit or interview before chalking out a pre-release plan?

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## Activity- 2

### Role play and exercise

#### Case Vignette no 1- from the module on “Understanding Children in Conflict with Law”.

##### *Case of J*

J has been received in the Observation Home with the allegations as given in the case vignette. The evidence against him is strong since the man whom J had beaten up is ready to depose in court and the medical evidence is quite adverse. As such an Individual Care Plan maybe prepared for the expected period of stay in the Observation Home as well for his continued stay in the Special Home.

##### *Activity*

The participants will be divided in groups of two- one to play the role of the child and the other to play the role of the probation officer.

1. The probation officer will interview the child and obtain at least five additional bits of information not available in the case vignette.
2. The Probation Officer will then prepare the Individual Care Plan in consultation with the child
  - a. The Individual Care Plan will have two components- one showing the immediate needs and the other showing the plan which can run for three years.
  - b. Will the Probation Officer need to discuss the case with anyone other than the child for preparing the Individual Care Plan?
  - c. The Individual Care Plan will be a speaking document showing various factors including the opinion of the child and mentioning why the opinion of the child has been accepted or rejected.

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### Activity- 3

#### Role play and exercise

#### **Case Vignette no 4- from the module on “Understanding Children in Conflict with Law”.**

#### *Case of T*

T has been received in the Observation Home with the allegations given in the case vignette no 4. Her stay in the Observation Home is likely to be short. She is expected to be released from Observation Home in about six months’ time without any further directions for her stay in a Special Home.

#### *Activity*

The participants will be divided in groups of two- one to play the role of the child and the other to play the role of the probation officer.

1. The probation officer will interview the child and obtain at least five bits of information not available in the case vignette.
2. The Probation Officer will then prepare the Individual Care Plan in consultation with the child,
  - a. The Individual Care Plan will have two components- one showing the immediate needs and the other showing the plan which can run for three years.
  - b. Will the Probation Officer need to discuss the case with anyone other than the child for preparing the Individual Care Plan?
  - c. The Individual Care Plan will be a speaking document showing various factors including the opinion of the child and mentioning why the opinion of the child has been accepted or rejected.
  - d. Are the things different for T as she is a girl?
  - e. Can the Individual Care Plan suggest an action plan to be followed after her release? Specifically mention where T can live on being released from the Observation Home?

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**SHORT NOTE ON**  
**INDIVIDUAL CARE PLAN- WHAT AND HOW- UNDER THE JUVENILE JUSTICE**  
**(CARE AND PROTECTION OF CHILDREN)ACT 2015**

– Justice Manju Goel (Retd.)\*

– Arlene Manoharan\*\*

*“People do not care how much you know until they know how much you care”*

– Teddy Roosevelt

### **Introduction**

The Juvenile Justice (Care and Protection of Children) Act 2015, hereinafter referred to as the Act or the new Act, describes itself as one relating to children in need of care and protection and children in conflict with law. As specified in the Preamble, the Act ‘caters to their basic needs through proper care, protection, development, treatment, social reintegration, by adopting a child friendly approach in the adjudication and disposal of matters in the best interests of the child and for their rehabilitation through processes provided and institutions established’, as well as other incidental matters. Children have to be treated differently from adults as we believe that the factors that drive a child to an action are different from the factors which may drive an adult to a similar kind of action. The basic concept of Juvenile Justice Act while dealing with a child in conflict with the law is that a child is not an offender like an adult who may have done an act as the one alleged. The approach towards such a child is that by the force of circumstances the child finds himself in conflict with the law. In fact, irrespective of their socio-economic status, they were the children who were in need of care and protection before they fell in the group of children who were in conflict with the law. Moreover, even after being in conflict with the law they need to be provided all that they need to develop to their fullest potential, and to become responsible members of the society. Most children in conflict with law hail from families who are deprived and who have been impoverished as their rights to livelihood, housing, health, etc. may not have been realized. The Individual Care Plan is a means to address these needs and ensure these entitlements. The idea of keeping the child away from the usual adjudicatory system of the courts and from prisons will be lost if the child cannot live in the society peacefully and with dignity and unless the State can make arrangements for his reintegration and rehabilitation. Sparing the child from punishment is not the goal of the Act. The goal of the act is farsighted. Through the process established by the Act the stakeholders are required to provide an opportunity to the child to reform and develop them into responsible citizens of the country who are able to live a life of dignity within the community.

Section 39 of the Act directs the State that the process of rehabilitation and social reintegration of children under the Act (namely children in need of care and protection as well as children in conflict with law) be undertaken based on an Individual Care Plan of the child. For the children in conflict with law the process of rehabilitation and social reintegration ought to be initiated as soon as the child comes before the Juvenile Justice Board. The child need not be actually kept in institutions for beginning the process of reintegration and rehabilitation. The process can start as soon as a child is received in any of the institutions mentioned in the Act or in the presence of the Juvenile Justice Board or the Child Welfare Committee. All officers and authorities concerned with the welfare of the child alleged or found to be in conflict with law are required to ensure that they adhere to the call of the Preamble, and focus their interventions on enabling his reform, reintegration and rehabilitation. Hence, the work related to the preparation of the Individual Care Plan should start at the earliest.

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## What is an Individual Care Plan?

Individual Care Plan has been defined in *Rule 2(ix) of The Juvenile Justice (Care and Protection of Children) Model Rules, 2016* [earlier the definition was contained in *Rule 2(h) of “The Juvenile Justice (Care and Protection of Children) Rules, 2007”*], as under:

*“Individual care plan is a comprehensive development plan for a child based on age and gender specific needs and case history of the child, prepared in consultation with the child, in order to restore the child’s self-esteem, dignity and self-worth and nurture him into a responsible citizen and accordingly the plan shall address the following, including but not limited to, needs of a child, namely:*

- (a) Health and nutrition needs, including any special needs;*
- (b) Emotional and psychological needs;*
- (c) Educational and training needs;*
- (d) Leisure, creativity and play;*
- (e) Protection from all kinds of abuse, neglect and maltreatment;*
- (f) Restoration and follow up;*
- (g) Social mainstreaming;*
- (h) Life Skill Training.”*

All the points (i) to (viii) have to be taken care of in making the Individual Care Plan. The word rehabilitation is not specifically mentioned in the definition but the term social mainstreaming has to be read to include the concept of rehabilitation. Special emphasis on rehabilitation is there in the Preamble of the Juvenile Justice Act 2015, as well as in *Section 39(1)* of the same.

Mentioned below are some indications of the special needs of a child alleged to be in conflict with law:

- **Legal:**
  - information about the law and the legal process
  - information about government schemes available
  - opportunities to express their wishes and views on matters concerning them, and to give due regard to the fact that sometimes these are in conflict with the views of the parent/family
  - opportunities for the family members to express their views and wishes on matters concerning them
- **Psychological:**
  - the child is likely to be in a trauma after having undergone the process in the Juvenile Justice Board despite all the care that may have been taken. Therefore, psychological support/ counselling should be arranged for as a part of an Individual Care Plan.
- **Social:**
  - a child has to get back to normal social relationships. Therefore, the Individual Care Plan has to take care to see that he is socially rehabilitated with his neighbours, classmates, friends and school.

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- **Emotional:**
    - emotional support means love and bonding. Therefore, if the child has been particularly attached to any relative or friend, effort should be made to continue that relationship. Psychological support may also be given to help him to get back the emotional balance.
  - **Protection:**
    - from abuse (including custodial abuse), exploitation, neglect
    - from system induced secondary victimization (stigma, harassment by police or others, delays, negative impact of institutionalisation, etc.)
  - **Educational:**
    - access to open-school/night school, socio-legal support to ensure schools do not deny admission/suspend/expel/discriminate against the child
    - sponsorship for fees, uniforms, tuition
    - income generation skills
    - life skills (decision making, conflict resolution, etc.)
  - **Familial:**
    - regular interaction with family members, repairing broken relationships
    - family social work interventions, including family therapy, particularly given that a comprehensive Individual Care Plan is a golden opportunity for the Probation Officer to help strengthen protective factors by reaching out to the families of children, and connecting them to public services that they are entitled to claim with dignity.
  - **Physical:**
    - housing, clothes
  - **Health:**
    - health and nutrition, treatment for any mental/physical deficiency or disease/ substance abuse, exercise according to their developmental stage, etc.
  - **Re-integration:** In addition to all of the above, enable support from the State and the wider community to-
    - Deal with prejudice and rejection
    - Develop a broad range of strategies for managing tasks/ solving problems;
    - Develop independence and autonomy;
    - Build positive relationships with their families and friends;
    - Helping children to control their thoughts and behaviour.

Let us understand the concept of Individual Care Plan and why it is important for the purpose of social reintegration and rehabilitation of the child. Each child is unique, and has his own individual needs, based on his age, sex, education, health, psychological and other status. Children, who are alleged to be in conflict with law, may have faced abuse, exploitation and/or neglect and may also experience additional trauma at the hands of gangs and the police. Apart from their abilities their life history may have been distinct and different from those of others. What each child needs for coping

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with his present and for preparation for his future are different. Hence each child needs a plan for himself or herself in order to achieve the ends of reintegration and rehabilitation.

Hence we have to remember the following points:

- Though the main focus of the Individual Care Plan is the ‘care’ of the child, as evident from the name itself, the Individual Care Plan also addresses the child’s need for ‘protection’, ‘treatment’, ‘development’, ‘rehabilitation’ and ‘social reintegration,’ (See Preamble containing these legislative goals and Section 39 (1), Juvenile Justice Act, 2015).
- The Individual Care Plan also enables more effective identification and protection of all the needs and rights of a child in conflict with law, in order to achieve the aims of juvenile justice, particularly the legislative goals of the Juvenile Justice Act, 2015.”
- It is the means by which Probation Officers can enable support services from the State to be made available to a child in order to develop attitudes and skills that help him grow into a mature and contributing citizen, to stay away from crime and to be accountable for his actions/ omissions on his journey towards rehabilitation and re-integration.
- The Board and the Children’s Court are both required to include an Individual Care Plan in their orders for every child (See Sections 19 (2) & 8 (3) (h), Juvenile Justice Act, 2015 and Rule 11(3) of the Model Rules of 2016).
- The Individual Care Plan therefore has a judicial value that is legally binding on the child, the family members (where specifically mentioned in the final order) and the State in terms of outcomes that are required for a particular child in order to achieve the legislative goals listed earlier.
- It is at the heart of reintegration programmes for children, and must take into account the specific needs and circumstances of each child and recognises the important role of the family, school and the wider community for effective reintegration.
- It helps to ensure that children requiring specialized attention (such as children involved in naxal activities, girls in conflict with law, children influenced by criminal gangs, etc.), get the help they are entitled to from the State and from the wider community, in order to effectively re-integrate.

Section 53 provides for the services that should be available in institutions which are registered under this Act for the process of rehabilitation and reintegration, apart from the primary requirement of food, shelter, etc. They include appropriate education, including supplementary education, special education and appropriate education. The education to be provided includes skill development, occupational therapy, mental health intervention, and recreational activity. Legal aid, referral services, case management including preparation and follow up of individual child plan and providing the child documents like birth certificate and ID proof. The Act also provides that the child can be released from a Special Home on the report of a Probation Officer and be restored to the parents or a Fit Person willing to educate and train the child for some useful trade or calling and look after him/her for rehabilitation.

Irrespective of whether the child is in some institution or home or is left in the care of the parent or fit person, the aim is reintegration and rehabilitation. Whatever action plan is prepared in this regard has to be comprehensive and based on the principle of best interest of the child. This implies that the Individual Care Plan, should respond to the all-round growth of the child, based on his individual needs and circumstances.

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For achieving such aim it is important that the person preparing the Individual Care Plan knows the child and understands his latent and patent abilities and appreciates the inhibitions and limitations associated with that particular child. The four concepts i.e. the 'Social Investigation Report', the 'Individual Care Plan', 'Reintegration and Rehabilitation' are all intrinsically related to one another. The Social Investigation Report enables a deeper understanding of the child and his circumstances, including the causes that may have led him to get into conflict with law. When we proceed to make the Individual Care Plan we try to address these factors which we have mentioned in our session on 'Understanding a Child'. We have to strengthen the protective factors namely the child's own abilities along with the protective elements in the family, society, or the school. The child has to be counselled and trained to understand the predisposing and precipitating factors, and find/develop alternate positive responses so as to refrain from engaging in crime again. The maintaining factors which feed on the predisposing factors have to be noticed also. It will depend on the needs and circumstances of each individual child to determine how a child should be dealt with while residing in any of the statutory institutions or after having been released.

For example, if a child has been a victim of exploitation (physical or sexual) which had been one of the factors for the child coming into association of criminal elements or becoming vulnerable by some other means, the Individual Care Plan must include steps to take care of the child's mental and physical health whereby he overcomes the effect of the trauma of exploitation. He cannot be restored to the same place where there is possibility of him again becoming a victim of exploitation. The Individual Care Plan also has to include recommendations as to whether or not a child should continue to associate with individuals/places which have had a negative influence on him and have clearly contributed to him getting into conflict with law. This will help the Board in framing conditions for release, as provided for in Sections 18 (2) (iv) and 97 (1) respectively. The child has to be protected from abuse, neglect and maltreatment. The Probation Officer therefore should make a special mention of any history of abuse or neglect in the Individual Care Plan.

Emotional wellbeing is important for every individual. The Individual Care Plan must make recommendations for how the emotional needs of the child are to be taken care of. One has to see, what encourages a child to learn a new skill? The natural aptitude of the child is important and useful in drawing up the care plan.

If the Individual Care Plan so made is put to actualisation by proper planning and execution, we can achieve the end of reintegration and rehabilitation.

The Individual Care Plan broadly aims to enable the rehabilitation and social re-integration of the child, and so even after the Individual Care Plan is prepared and included in the final order of the Juvenile Justice Board, the Probation Officer responsible for the child, should view the contents as a minimum standard, in terms of the services that the State has to provide to the child. There is no bar on the Probation Officer or the functionaries of the home in which the child is placed, to build on this and enable the child to have access to other services that help to achieve the goal of rehabilitation and re-integration. However, if there is a requirement for the child to be shifted to another home/institution or to be placed in the custody of a Fit Person, after the final order, the Probation Officer may recommend the same.

The Individual Care Plan is not a static document that remains cast in stone, once it is prepared and an order is passed either while the child is in the Observation Home under inquiry, or when he is placed in a Place of Safety or Special Home after having been found involved in an offence. The Probation Officers have a duty to be alert to the needs of the child in their care, and to make submissions to the Juvenile Justice Board, requesting for revised orders based on these. The same process is to be followed for children who are under inquiry by the Children's Courts and are residing in a Place of Safety.

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Though the law demands that the child's right to be heard is respected and protected, the Probation Officer is not bound to make recommendations in line with the child's wishes. He is in fact required to apply the Best Interest Principle and make recommendations to the Juvenile Justice Board/ Children's Court based on this. He may however record the wishes of the child in the Individual Care Plan, and even the wishes of the family/other significant persons in the child's life. However, ultimately the Probation Officer needs to be able to take an independent view and make recommendations, while also providing supporting arguments and material for these.

### **Resources**

The facilities that should be available in an institution where the children have to stay under the order of the Juvenile Justice Board or Children's Court have already been mentioned above. However, each 'home' may not actually be equipped with all the facilities. School and institutions maintained by the State are also preferred resources. The Probation Officer should not be inhibited to prepare a plan which may require resources not available in the 'home'. However, the Probation Officer should not make a utopian plan. He/she should provide the details of the teachers, mentors or trainers or other institutions where such facility/facilities are available. For example, if a child has a natural aptitude to music, he can be sent to a music school which he can attend under the supervision of the Probation Officer. If such talent is developed, the same may become the vocation of the child in the future. Similarly, if a child is close to completing his schooling, the Individual Care Plan may include appropriate coaching for taking the school leaving examination.

The Probation Officer is therefore, required to keep himself informed of all the resources that may be available in the town in which the 'home' is situated. The Probation Officer should also take into account what resources the family or the fit person, or the community is willing to provide, while preparing a Pre-release Care Plan. The Probation Officer should also be alert as to whether placement with the family is in the best interest of the child or not, bearing in mind the possibilities of the family members influencing the child to be involved in crime. If the Social Investigation Report does indicate that placement in the child's own home is in his interest, then the Individual Care Plan should also indicate how the family could be a 'resource' in rehabilitating and re-integrating the child. In cases where the Social Investigation Report reveals that it is not in the interest of the child to be placed in the family, the Probation Officer may make recommendations for placement in the custody of a Fit Person or fit facility, After Care Organization, so that he is groomed to grow out of the shadow of the family and be self-reliant. The Pre-release plan is therefore vital in paving the way for a smooth re-integration into the community with dignity and for preventing recidivism.

### **Pre-release plan**

Preparation of the Individual Care Plan is not a onetime activity like filling a form for grant of a driving license. It has to be a living, workable and dynamic document. In fact the Individual Care plan as envisaged in Form 7 (Annexure A to the short note) contains one section on the personal detail of the child including the areas of concern and proposed interventions and Part B of the Plan pertains to the Progress Report of the child to be prepared every fortnight for the first three months and there after to be prepared once a month. Part C specifically refers to a Pre-Release Report to be prepared 15 days prior to release and contains rehabilitation and restoration plan for the child.

### **Monitoring of the Individual Care Plan**

While the child is in the 'home' or under the charge of the Probation Officer, for one reason or the other, the Probation Officer has to monitor the progress of the child on some comprehensible parameters which will show whether the Individual Care Plan actually works for the child, whether the child is getting the necessary support and supervision or mentoring to achieve the targets set for him/

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her, and whether any of his rights are being violated during his stay in such homes. Infacta Rehabilitation Card has been provided to monitor the progress of the individual care plan in respect of children who are placed in Child Care Institutions. The Probation Officer has to monitor the progress of a child in conflict with law residing in the Place of Safety as per the order of the Children's Court and submit an annual report as provided under Section 19 (4). He also has to monitor the child residing in a Place of Safety to see that he is not being ill-treated (Sec 19 (4) and report such violations to the Board.

The Individual Care Plan should lay down periodic targets to be achieved in all aspects of the plan including health, academics, vocational studies, reintegration, etc. As per the rules the Probation Officer has to give fortnightly progress report while the plan itself is subject to review each quarter.

The Act, in Section 20 (1), provides for an assessment to be undertaken for children found to have committed heinous crimes residing in a Place of Safety as per the orders of a Children's Court, who have attained the age of twenty-one years, to evaluate 'if such child has undergone reformative changes and if the child can be a contributing member of the society.' If the child passes this test, he is to be released into the community under the supervision of a 'monitoring authority' for the remainder of the sentence. This advocates the importance of an appropriate Individual Care Plan and its due follow up. On success of the Individual Care Plan a child on attaining 21 years of age may be released whereas, he may suffer the risk of going to the jail on failing the test.

The Rules framed under the Act of 2015 prescribe certain forms for all the reports the Probation Officer is required to prepare. However, the Probation Officer need not be inhibited by the lack of appropriate volume or insufficiency of space in the form. The facts that the Probation Officer wants to bring on record must be there despite a prescribed format which is meant only to facilitate than to restrict.

When the child is about to be released, the Probation Officer has to give a Pre-release Plan. The idea behind the Pre-release plan is to ensure the safety of the child against factors contributing to his/her coming into conflict with law apart from his/her personal security and facility for economic survival. Children who are at risk of coming into conflict with the law tend to display certain traits, termed 'risk factors', that lead professionals to believe that they may commit crime in the future. The majority of these risk factors can be countered by fostering more positive traits, or 'protective factors'. At the basis of prevention is the attempt to tackle risk factors by fostering protective factors in the children's lives. A thorough assessment of their risk factors needs to be undertaken at the time of entry into the juvenile justice system to ensure that their entire journey through the system is geared to their eventual reintegration into the community. The table below gives examples of common risk and protective factors<sup>1</sup>.

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<sup>1</sup> Source: Adapted by Penal Reform International from Stephenson et al., Effective Practice in Youth Justice, 2011, Protecting Children's Rights in Criminal Justice Systems, Penal Reform International, 2013 pg 21

	<b>RISK FACTORS</b>	<b>PROTECTIVE FACTORS</b>
<b>FAMILY FACTORS</b>	<ul style="list-style-type: none"> <li>• Low socio-economic status</li> <li>• Parents, siblings or other family members with offending and anti-social behaviour</li> <li>• Harsh and inconsistent parenting</li> <li>• Poor parent-child relationships</li> <li>• Early victimisation (physical, sexual and other abuse)</li> <li>• Violence in the home</li> <li>• Passive or condoning attitudes to anti-social and criminal behaviour</li> </ul>	<ul style="list-style-type: none"> <li>• High socio-economic status</li> <li>• Parents who provide pro-social role models</li> <li>• Consistent parental support and supervision</li> <li>• Strong bonds to parents</li> <li>• No early trauma or abuse</li> <li>• Safe home</li> <li>• Clear moral guidance from parents regarding anti-social and criminal behaviour</li> </ul>
<b>SCHOOL FACTORS</b>	<ul style="list-style-type: none"> <li>• Weak attachment to school</li> <li>• Low educational achievement</li> <li>• Organisational weakness in the school</li> </ul>	<ul style="list-style-type: none"> <li>• Strong bonds to teachers</li> <li>• Strong educational attainment</li> <li>• Well-functioning school</li> <li>• Good relationships with classmates</li> </ul>
<b>COMMUNITY FACTORS</b>	<ul style="list-style-type: none"> <li>• Lack of attachment to the local community</li> <li>• Ready availability of drugs</li> <li>• Disadvantaged area</li> <li>• High turnover of the population</li> <li>• Gangs operating in the area</li> </ul>	<ul style="list-style-type: none"> <li>• High community involvement</li> <li>• Drug free neighbourhood</li> <li>• High socio-economic area</li> <li>• Stable population</li> <li>• No gang networks operating</li> </ul>
<b>INDIVIDUAL / PEER FACTORS</b>	<ul style="list-style-type: none"> <li>• Association with delinquent peers</li> <li>• Substance abuse</li> <li>• Aggression and impulsivity</li> <li>• Attitudes sympathetic to offending</li> </ul>	<ul style="list-style-type: none"> <li>• Pro-social peers</li> <li>• Social skills</li> <li>• Self-control</li> <li>• Attitudes against offending</li> </ul>

Hence the points that call for consideration in pre-release plan are as below:

- Most children in conflict with law hail from difficult and unstable living conditions
- They may not have anyplace suitable to return to on release.
- The Probation Officer needs to ensure that arrangements can be made for the child to have a place to live, employment, clothing, and other basic necessities upon release.
- Any gaps between leaving custody and finding accommodation or returning to education / employment can further alienate the child
- This may result in re-offending, either as a pure survival strategy, or because of re-connections made with negative influences/triggers, resulting in a high risk of re-entry into the Juvenile Justice system

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- The Pre-release plan is therefore vital in paving the way for a smooth re-integration into the community with dignity and for preventing recidivism.

### **Follow-up post release**

The duty of the Probation Officer is not over after the child is released from an Observation Home, Special Home or Place of Safety. The process of rehabilitation that starts in the 'home' continues after his release. Sections 8 (3) (h), and 19 (2) of the Act provide for follow up to be undertaken by the Probation Officer as per the orders of the Board and Children's Court respectively. Section 53 (1) (x) of the Act also provides for institutions registered under this Act in the process of rehabilitation and re-integration of children to provide for 'case management including preparation and follow up of individual care plan.' Appropriate orders in this regard need to be passed by the Juvenile Justice Board to empower the Probation Officer to follow up on various aspects as provided in the rules. Form 7 also makes provision for post-release/ restoration report of the child. The central idea behind the follow up is to address the rehabilitative needs of the child released from such a home, and ensure that the child is fully integrated into the community. The Individual Care Plan is the means by which the needs of the child are assessed, addressed, monitored and achieved so that the child grows into a mature citizen able to live a life of dignity away from crime. The Probation Officer therefore plays a vital role in enabling the realization of the over-arching goal of juvenile justice- the social-re-integration of children in conflict with law, and the prevention of recidivism.

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FORM 7

[Rules 11(3), 13(7)(vi), 13(8)(ii), 19(4), 19(17), 62(6)(vii), 62(6)(x), 69 I (3)]

INDIVIDUAL CARE PLAN

Child in Conflict with Law/ Child in Need of Care and Protection
(tick whichever is applicable)

Name of Case Worker/Child Welfare Officer/Probation officer.....

Date of preparing the ICP .....

Case/Profile No.....of 20.....

FIR No.....

U/Sections (Type of offence),applicable in case of Children in Conflict with Law.....

Police Station.....

Address of the Board or the Committee.....

Admission No.(if child is in an institution).....

Date of Admission (if child is in an institution).....

Stay of the child (Fill as applicable)

- (i) Short term (up to six months)
(ii) Medium Term (six months to one year)
(iii) Long term (more than 1 year)

A. PERSONAL DETAILS (to be provided by child/parent/both on admission of the child in the institution)

- 1. Name of the Child.....
2. Age/Date of Birth.....
3. Sex: Male/Female.....
4. Father's name:.....
5. Mother's name.....
6. Nationality.....
7. Religion.....
8. Caste.....
9. Language spoken.....
10. Level of Education.....
11. Details of Savings Account of the child, if any.....
12. Details of child's earnings and belongings, if any.....
13. Details of awards/rewards received by the child, if any.....
14. Based on the results of Case History, Social Investigation report and interaction with the child, give details on following areas of concern and interventions required, if any

S.No.	Category	Areas of concern	Proposed Interventions
1.	Child's expectation from care and protection		
2.	Health and nutrition needs		
3.	Emotional and psychological support needs		
4.	Educational and Training needs		
5.	Leisure, creativity and play		
6.	Attachments and Inter-personal Relationships		
7.	Religious beliefs		
8.	Self care and life skill training for Protection from all kinds of abuse, neglect and maltreatment		
9.	Independent living skills		
10.	Any other such as significant experiences which may have impacted the development of the child like trafficking, domestic violence, parental neglect, bullying in school, etc. (Please specify)		

**B. PROGRESS REPORT OF THE CHILD (to be prepared every fortnight for first three months and thereafter to be prepared once a month)**

[Note: Use different sheet for Progress Report]

1. Name of the Probation Officer/Case Worker/Child Welfare Officer.....
2. Period of the report.....
3. Admission No.....
4. Board or Committee.....
5. Profile No.....
6. Name of the Child.....
7. Stay of the child (Fill as applicable)
  - (i) Short term (up to six months)
  - (ii) Medium Term (six months to one year)
  - (iii) Long term (more than 1 year)

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8. Place of interview ..... Dates.....

9. General conduct and progress of the child during the period of the report

.....

.....

10. Progress made with regard to proposed interventions as mentioned in point 14 of Part A of this Form

S. No.	Category	Proposed Interventions	Progress of the child
1.	Child's expectation from care and protection		
2.	Health and nutrition needs		
3.	Emotional and psychological support needed		
4.	Educational and Training needs		
5.	Leisure, creativity and play		
6.	Attachments and Inter-personal Relationships		
7.	Religious beliefs		
8.	Self care and life skill training for Protection from all kinds of abuse, neglect and maltreatment		
9.	Independent living skills		
10.	Any other such as significant experiences which may have impacted the development of the child like trafficking, domestic violence, parental neglect, bullying in school, etc. (Please specify)		

11. Any proceedings before the Committee or Board or Children's Court

- (i) Variation of conditions of bond
- (ii) Change of residence of the child
- (iii) Other matters, if any

12. Period of supervision completed on.....

Result of supervision with remarks (if any).....

Name and Addresses of the parent or guardian or fit person under whose care the child is to live after the supervision is over.....

Date of report.....Signature of the Probation Officer.....

**C. PRE-RELEASE REPORT (to be prepared 15 days prior to release)**

1. Details of place of transfer and authority concerned responsible in the place of transfer release
2. Details of placement of the child in different institutions/family
3. Training undergone and skills acquired
4. Last progress report of the child (to be attached, refer Part B)
5. Rehabilitation and restoration plan of the child (to be prepared with reference to progress reports of the child)

S.No.	Category	Rehabilitation and restoration plan of the child
1.	Child's expectation from care and protection	
2.	Health and nutrition	
3.	Emotional and psychological	
4.	Educational and Training	
5.	Leisure, creativity and play	
6.	Attachments and Inter-personal Relationships	
7.	Religious belief	
8.	Self care and life skill training for Protection from all kinds of abuse, neglect and maltreatment	
9.	independent living skills	
10.	Any other	

1. Date of release/transfer/repatriation.....
2. Requisition for escort if required.....
3. Identification Proof of escort such as driving license, Aadhar Card, etc.....
4. Recommended rehabilitation plan including possible placements/sponsorships....
5. Details of Probation Officer/non-governmental organization for post-release follow-up.....
6. Memorandum of Understanding with non-governmental organisation identified for post-release follow-up (Attach a copy).....
7. Details of sponsorship agency/individual sponsor, if any.....
8. Memorandum of Understanding between the sponsoring agency and individual sponsor (Attach a copy).....

9. Medical examination report before release.....  
 10. Any other information.....

**D. POST-RELEASE/RESTORATION REPORT OF THE CHILD**

1. Status of Bank Account: Closed / Transferred  
 2. Earnings and belongings of the child: handed over to the child or his parents/guardians – Yes/No  
 3. First interaction report of the Probation Officer/Child Welfare Officer/Case Worker /social worker/non-governmental organisation identified for follow-up with the child post-release.....  
 4. Progress made with reference to Rehabilitation and Restoration Plan.....  
 5. Family’s behavior/attitude towards the child.....  
 6. Social milieu of the child, particularly attitude of neighbours/community.....  
 7. How is the child using the skills acquired.....  
 8. Whether the child has been admitted to a School or vocation? Give date and name of the school/institute/any other agency Yes/No  
 .....  
 9. Report of second and third follow-up interaction with the child after two months and six months respectively.....  
 10 Efforts towards social mainstreaming and child’s opinion/views about it.....  
 11. Identity Cards and Compensation

[Instruction: Please verify with the physical documents]

IDENTITY CARDS	Present status (Please tick whichever is applicable)		Action taken
	Yes	No	
Birth Certificate			
School certificate			
Caste certificate			
BPL Card			
Disability Certificate			
Immunization card			
Ration Card			
Adhaar Card			
Received compensation from Government			

**Signature of the Probation Officer/Child Welfare Officer**  
**Stamp and Seal where available**

**MODULE FOR TRAINING OF LEGAL SERVICES LAWYERS AND PROBATION OFFICERS AND ATTACHED TO THE JUVENILE JUSTICE BOARDS ON  
ETHICS IN DEALING WITH CHILD IN CONFLICT WITH LAW UNDER  
THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

*– Dr. Tejinder Kaur\**

**SESSION PLAN**

**Objective**

1. To introduce the concept of ethics in handling cases of children in conflict with law.
2. To give them clear perspective about ethical interactions with children in conflict with law, their parents/ guardians.

**Expected learning outcome**

1. Participant will be able to observe ethics in his dealing with the child and his family members/ guardian.
2. Participant will be able to ensure that his/her conduct is above board at all times while working for Children in conflict with law.
3. Participant will be able to project a supportive and child-friendly image at all stages that a child in conflict with law passes within the JJ system.

**Programme:**

- 1. Introduction** 10 minutes  
Trainer will introduce the participants to the issues and concerns on ethics in dealing with cases of children in conflict with law, in reference to the peculiarity of the case, concerns of parents/ guardians, and meeting the requirements of the Juvenile Justice System in a humane manner, always watching the “best interest of the child”.

**Case Study Presentation, Small Group Discussions and Whole**

- 2. Group Discussions** 30 minutes  
Participants will be divided in groups of 4-6 and they will be asked to find answers to the questions. Each group will present its views to the whole group for whole group discussion. Resource Person will provide the missed out points and will present a holistic view of the topic.
- 3. Role Play, Small Group Discussions and Whole Group Discussions** 40 minutes  
Some of the participants will enact the role play, while the remaining shall observe it.  
Participants in groups of 4-6, will find answers to the questions. Each group will present its views to the whole group for whole group discussion. Resource Person will provide the missed out points and will present a holistic view of the topic.
- 4. Concluding Remarks** 10 minutes  
Remarks will be made by the resource person or one of the participants, summing up the essence of the topic.

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\* Joint Director, NIPCCD

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## **Training Method**

1. Interactive session: presentation followed by discussion
2. Case study presentation with discussion
3. Role play followed by discussion

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## ACTIVITY FOR SESSION X

### READING FOR GROUP DISCUSSION-I

Roshan, a 13 year old boy, is an orphan, staying with his other friends on the street, all of them being rag pickers. They earn their livelihood by selling the rags and scraps. One day, his friends trespassed into the 'Defense Area' to pick up scraps from the trash in spite of Roshan's consistent warning that it would get them into trouble. He waited outside when his friends were collecting the scraps. Unexpectedly, police was called for and they were all apprehended, without any enquiry, on allegations of trying to steal. The boys were illiterate and could not read that it was a "Prohibited Area". All the boys, including Roshan were kept in the Police Station from evening to next morning without food and were physically assaulted. The Probation Officer visited the Police Station once in the night and discussed the case with the Police Officer. Before leaving the Police Station, the Probation Officer came with the Police Officer and went back after seeing the boys and asking their names, and without interacting with them.

Next day, early in the morning, all the boys were taken to the Juvenile Justice Board. Parents of one boy also came to Juvenile Justice Board on being informed by the police. In spite of Roshan's pleading that he was innocent, he was not let off and he was produced before the Juvenile Justice Board. After the proceedings of Juvenile Justice Board were over in case of Roshan and his friends and also in other cases, where Probation Officer was required to furnish some reports, it turned dark in that winter evening and the last bus to the area where the Observation Home where Roshan and his friend were to be taken was located, had already gone. Probation Officer had not made any arrangements for night halt for himself and the child in conflict with the law he was escorting and therefore, he conveniently accepted the offer of the parents of one of the boys he was escorting to go in their jeep with the boys and stay over-night at their home in the nearby village.

In a small group discussion seek response to:

1. Was the police correct in its action?
2. What should Probation Officer do after reaching the Police Station where children in conflict with the law were brought?
3. What should be the immediate response of the Probation Officer on learning about the case of an orphan coming in conflict with law?
4. What are the steps to be taken for access to legal aid in this case where no family support exists?
5. Is Probation Officer required to take extra care of needs of child in conflict with law like Roshan? Yes or No – give reasons?
6. Should the Probation Officer accept the hospitality of the family of a child in conflict with the law?
7. What should be the approach of volunteers at the Para-legal Clinic/ the panel Lawyer at the District Legal Services Authority?

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## READING FOR ROLE PLAY AND GROUP DISCUSSION - II

Vinay, ran away from home when he was 16 years old due to a fight with his father. A man from his village convinced him to take up a job in Dimapur and brought him but on finding that he had no money, deserted him at the railway station. Vinay did not want to go back home where his step mother was always finding faults with him and complained against him to his father and his step brother and sister did not accept him as their elder brother. He perceived himself to be not loved and wanted by his family.

When Vinay looked totally lost and did not know where to go and what to do, he met a group of children who were living on the streets. They took care of him and also taught him the skills of survival by picking rags and collecting scraps. He had been selling 'scrap' to sustain himself and was also initiated into drugs by his peers. He had been apprehended by the police with 15 grams of brown sugar and an expensive watch, which was alleged by the police to be a stolen article and not belonging to Vinay. He was produced before the Juvenile Justice Board by the police. The Probation Officer appeared only at the time of Vinay being produced before Juvenile Justice Board. The Principal Magistrate along with the members of Juvenile Justice Board ordered the child to be placed in the jurisdictional Observation Home and his parents were ordered to appear before the Juvenile Justice Board on the next date of proceedings. When Vinay refused to go with his parents due to disharmony and conflict in his family, he was ordered to be placed with a local NGO, under close supervision of the Probation Officer, who was to prepare an Individual Care Plan for Vinay and help him re-start his life.

Role play on the above script (with or without improvisations/ modifications) may be enacted and followed by group discussion.

In a small group discussion seek response to:

1. What should be the immediate response of the Police Officer on coming across Vinay as a child in conflict with law?
2. What are the ethical responses and duties expected from a Probation Officer in this case?
3. Should the Probation Officer not have sought an order for de-addiction of Vinay?
4. Is Probation Officer required to take extra care of needs of Child in Conflict with Law like Vinay, who is already initiated into drugs? Yes or No – give reasons?
5. Is Probation Officer required to explore possibilities of re-integration of Vinay with his family or to only work on an Individual Care Plan, without exploring and excluding his social support systems?

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**SHORT NOTE ON**  
**ETHICS IN DEALING WITH CHILD IN CONFLICT WITH LAW**

– Dr. Tejinder Kaur\*

**Introduction**

Of late discussions in ethics have become frequent and commonplace. Ethics generally mean certain principles of morality which are generally accepted by all cutting across all religions, nations and communities. The present discussion on ethics is not to suggest that the Probation Officers have forgotten those settled principles. Nonetheless a discussion on ethics is necessary for apart from being actually ethical it is also necessary that one is perceived by others as ethical. Public perception of a functionary is based on external manifestation of a person's conduct rather than his actual intentions which remain private. Hence every profession has its own ethical principles. For example, a Judge should not hear a case in which he or any of his relatives is interested. A teacher should not become an examiner in any examination if his son is appearing in the same. A doctor should treat a patient irrespective of the patient's religion or nationality. A Judge maybe entirely above both and capable of doing justice despite the involvement of his near relatives. A teacher can be objective enough to evaluate the performance of his own son without any favouritism yet the professional ethics demand that the judge and the teacher distance themselves in the above situations. This is because the public perception of a functionary's conduct is as important as abiding by a person's ethics and conscience.

Different professions have evolved their own rules of ethical conduct. So far as Probation Officers are concerned, perhaps, there is no conscious effort to create a formal code of ethics. However some broad principles can be followed by all in any kind of public service. A discussion on ethics for probation officers is of particular importance since the persons the Probation Officer deals with are weak and vulnerable. Further they may not be fully informed about the role of the Probation Officer in the entire episode they find themselves in. It is important for the Probation Officer for due discharge of his role that he gains the confidence of the children and the family as well as the society around them which is not possible except by conduct in strict conformity with ethical standards.

The British Government appointed a committee to examine the concerns about the standards of conduct for all the holders of public office and to make recommendations for steps to ensure the highest standards of propriety in public life. The recommendations of the committee given in the year 1995 have been found to be generally acceptable by public conduct functionaries all over the globe and we can briefly recall the same so that even if a code of is yet to be charted out there is a set of ethical principles which can be followed by anyone including a Probation Officer.

The seven principles evolved by the committee appointed by the British Government, known as Nolan's Seven Principles of Public Life are as under:

**NOLAN'S SEVEN PRINCIPLES OF PUBLIC LIFE**

**1. Selflessness**

Holders of public office should act solely in terms of the public interest.

**2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

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\* Dr. Tejinder Kaur, Joint Director, NIPCCD

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### **3.Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **4.Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **5.Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **6.Honesty**

Holders of public office should be truthful.

### **7.Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **CHILDREN IN CONFLICT WITH LAW**

Nearly twenty percent of children in the world live in India. Children are innocent and impressionable and have a limited understanding of the events around them but each happening of their lives leaves an indelible mark on their mind and personality. Adverse socio-economic circumstances of a family unit often lead to stress within the family, which invariably gets transmitted to children within the family. Disintegration of the family under stress may even result in destitution of children. Poor economic condition of the family may lead to trafficking of children on the lure of better life, employment, education or marriage. Some children may not be able to cope with pressure from parents or may not find the family environment comfortable and may run away from home.

In the contemporary social context, the peer group influence, irrespective of socio economic milieu the child is in, has a tremendous impact on the psyche and actions of the child. Thus, deviant behaviour may also be a manifestation of peer group influence, if such a peer group indulges in antisocial activities bordering on the crime-related behaviour, and the child coming in conflict with law in such cases is in circumstantial compulsion, in order to continue to be a part of the group.

Certain other children may be reported missing for various reasons, including abduction, and may get drifted to a life that may bring them in conflict with law. Children away from caring and protecting environment of home may fall into an undesirable company of antisocial elements, individuals in conflict with law or may be trapped or abused by adults indulging in criminal activities. Besides, there may be compelling circumstances like hunger that may lead to a child coming in conflict with law. Therefore, whenever a Probation Officer comes in contact with any child in conflict with law, it is very important to find out the journey of the child from playful innocence to the stage of coming in conflict with law.

## **PROBATION OFFICER AS AN EARLY IMPORTANT CONTACT**

The Probation Officer is a significant person in the life of every child who comes in conflict with law. As soon as a child in conflict with law (Child in Conflict with the Law) enters the Juvenile Justice

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System on being apprehended by police, the child is in need of someone who acts as a friend and guide to come out of the difficult circumstances that he is in and a Probation Officer is the functionary in the system who meets that requirement of the child. The association between the child in conflict with the law and Probation Officer commences on child coming in contact with police and ends at the child in conflict with the law moving out of the Juvenile Justice system, to reintegrate into the society, which implies that the entire journey of child in conflict with the law in the Juvenile Justice system is influenced and supported by the Probation Officer.

Both the child in conflict with the law and family of the child in conflict with the law look upon the Probation Officer as a powerful officer who can help them in tiding over the crisis that arises out of the unfortunate situation of a child coming in conflict with law. They are new to the Juvenile Justice System and not very familiar with the laws and totally overawed by the visible power of Police and the Presiding Officer of the Juvenile Justice Board. Probation Officer, therefore, may appear to be an accessible officer in the Juvenile Justice system to steer the case of child in conflict with the law through the ups and downs of the journey within the Juvenile Justice system.

### **PROBATION OFFICER TO BE FRIENDLY IN APPROACH**

Probation Officer on meeting the child should in the very first place accept the child in conflict with law to be an individual with greater vulnerability and helplessness than an adult, with limitations in comprehension and understanding of the world on account of age, exposure and circumstance of existence and level of mental maturity. The child in conflict with the law is to be perceived as a child in need of not only legal assistance but also a child in need of care and protection. Such a child may have physical needs (food, clothing, shelter, etc.), emotional needs (emotional support, empathy, counselling, behaviour therapy, etc.), developmental needs (education, vocational skills), economic compulsions, etc. which the Probation Officer may identify by befriending and talking to the child in conflict with the law. The mandate of the Probation Officer does not begin and end with the listed set of job responsibilities, which in any case are not to be discharged mechanically. Probation Officer is one of the humane faces of the Juvenile Justice system. Therefore the Probation Officer should never behave like an officer in authority who views child in conflict with the law as an offender and keeps such a child at an arm's length and showers the child in conflict with the law with a volley of questions, expecting instant responses to those questions in order to hurriedly finish the initial task of briefing the Juvenile Justice Board and completing the Social Investigation Report.

During any interaction between the Probation Officer and the child in conflict with the law or Probation Officer and the family members/guardians of the child in conflict with the law, Probation Officer should never give the impression that he/she is an officer in authority, who can make or mar the future of the child in conflict with the law and his/her *dictats* are to be followed. Rather, Probation Officer should appear to the child in conflict with the law and family members/guardian of the child in conflict with the laws to be a friend in hostile and trying circumstances who would not only help them in handling the controversial circumstances but also help in meeting the needs of the child and shaping the future of the child, so as to ensure that the child enjoys the childhood and grows into a responsible and socially responsible and productive adult who lives amicably in the society and becomes a good law-abiding citizen.

The Probation Officer should not treat the problems, grievances, fears, apprehensions with disdain and cynicism and should not ignore or undermine the needs and compulsions of the child in conflict with the law but should exercise due patience, concern and compassion in appreciating these, while also employing the strength of his own personality in instilling discipline, sense of responsibility and developing a sense of public and social concern in their thoughts and actions. Thus, Probation Officer should emerge as the mentor of the child in conflict with the law, who not only offers sound

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advice and moral support to the child in conflict with the law but enables such a child to transform himself/herself into an individual with a positive approach to things, who is willing to accept the positive support, care and protection available within the Juvenile Justice system to develop into a responsible, self-reliant person, who believes in peaceful and productive existence in the society with strong social and emotional bonds to sustain such existence.

The Probation Officer should be equally persuasive and influential with the parents, family members or guardian of the child in conflict with the law so as to motivate them to change their approach and attitude towards the child in conflict with the law to help wean off the child from potentially dangerous and negative environment that has the potential of pushing the child into situations of coming in conflict with law. He should be persuasive enough to make the family/guardian of child in conflict with the law to provide positive, warm and secure environment at home itself so that the child is not forced into or lured by an environment of conflict, violence, lawlessness and not governed by anti-social and socially- disruptive values.

### **CONDUCT OF PROBATION OFFICER TO BE ABOVE BOARD AND EXEMPLARY**

The conduct of Probation Officer should always be above board and his/her reports should be accurate, factual and unbiased. Only then can a proper decision be taken by the Juvenile Justice Board regarding the child in conflict with the law during the period of investigation and supervision pending final order and up to reintegration into the society. The task of collection and recording of information about child in conflict with the law from the child, family members/guardian and other contacts/agencies has to be undertaken with utmost care to facilitate proper decision regarding the placement and needs of the child in conflict with the law pending inquiry. Probation Officer and the panel lawyer handling the case of the child in conflict with law should conduct themselves fairly, judiciously and proactively to assist the Juvenile Justice Board to ascertain whether the case is to be heard by the Board itself or is to be referred to a regular jurisdictional prescribed court in case of allegations of heinous crime against the child. For this, the concern behind the relevant provision of JJ Act, 2015 is to be kept in mind, not jeopardising either the interests of the child or the society, and conducting the case fairly and without prejudice. Any inaccurate or biased report is bound to generate orders regarding that child in conflict with the law that are not in the “best interest” of the child and they may not be in line with the objectives of the Juvenile Justice Act.

A child in conflict with the law may be placed under the supervision of the Probation Officer by the Board up to a period of three years at any of the three stages:

- Bail
- Final Order
- Post release

The Probation Officer shall not only support the child in conflict with the law but also the family members of the child in various tasks related to the above stages that the child in conflict with the law passes through. The visits to the child at home/child care institutions (Observation Home/Special Home)/ school/vocational training facility/employment establishment and factual reporting is important in taking appropriate decisions regarding the child in conflict with the law and shaping the future of the child in conflict with the law.

The inputs and influence of the Probation Officer, to a great extent determine, as to how the child in conflict with the law is treated by Juvenile Justice Board, institutionalizing the child and the opportunities available to a child in conflict with the law to return back to normal life in the society without stigma of incarceration. The exemplary conduct and sincere efforts of the Probation Officer

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ensure that the child does not revert to life of crime and keeps away from coming in conflict with law and determines the effectiveness of reformation, rehabilitation and reintegration of the child into society on release into the care of parent or fit facility or through supervision of the Probation Officer.

Never should it be perceived by the child in conflict with the law or his or her associates and family that the Probation Officer can be manipulated into obtaining convenient orders or else the Juvenile Justice system is subject to manipulative influences and Probation Officer can be instrumental in pulling certain strings in obtaining certain orders, without subjecting the child in conflict with the law to the process of Juvenile Justice that is in fact meant for behavioural correction of the child and path correction of child in conflict with the law to transform the child into a law abiding citizen.

Probation Officer should maintain an appropriate distance from the child in conflict with the law and his/her family, so as to avoid conflict due to excessive closeness between the Probation Officer and the family of the child in conflict with the law. For instance, accepting a cup of tea from the family of child in conflict with the law while interacting with them is reasonable, whereas accepting gifts or favours from the family of child in conflict with the law is undesirable. Probation Officer may avoid unethical situations through foresight and scrupulous practice of ethics. In cases whether the Probation Officer and/or the family of child in conflict with the law have to travel a long distance to attend proceedings before the Juvenile Justice Board and return thereafter, there may be even a need of night halt. It is ethically desirable that the Probation Officer should make his own arrangement for board and lodging and should never be dependent on the hospitality of the family of child in conflict with the law.

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**MODULE FOR TRAINING OF PROBATION OFFICERS ATTACHED TO THE  
JUVENILE JUSTICE BOARDS ON FIELD VISIT TO OBSERVATON HOME**

**SESSION PLAN**

1. Participants will go round the Observation Home and make a critical assessment of the facilities provided for the inmates.
2. The participants will be divided into small groups. One member of each group will interview a child for five minutes on any topic using the newly learned communication skill. The other members of the group will give a feedback in the following manner:
  - a. What was good in the manner of communication?
  - b. What part of the communication should have been differently done?

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**MODULE FOR TRAINING OF LEGAL SERVICE LAWYERS AND PROBATION OFFICERS ATTACHED TO THE JUVENILE JUSTICE BOARDS ON  
ROLE OF LEGAL SERVICES INSTITUTIONS UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2015**

— Asha Menon\*

**SESSION PLAN**

**Objectives**

1. Participants will be introduced to the entire structure and working of the Legal Services institutions under the Legal Services Authorities Act, 1987.
2. They would understand the expected roles of the Legal Services Panel Lawyers so that they are appropriately oriented to providing services to children effectively and sensitively.
3. The Probation Officers would get a perspective into the role of Legal Services Institutions and how they can co-ordinate with them for working in the best interests of the child.

**Programme:**

- |   |            |
|---|------------|
| 1. Interactive lecture on Role of Legal Services Institutions | 50 minutes |
| 2. Conclusion   | 10 minutes |

**Training Method**

1. Lecture along with hand-outs

*(The Legal Services Institutions should distribute a directory of the local Legal Services Authority, the panel lawyers and the PLVs to the participants.)*

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\* District and Sessions Judge, Delhi (South-East District) Saket Courts.

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**SHORT NOTE ON**  
**ROLE OF LEGAL SERVICES INSTITUTIONS UNDER THE JUVENILE JUSTICE**  
**(CARE AND PROTECTION OF CHILDREN) ACT 2015**

— *Ms. Asha Menon\**

**Reading Material**

The Legal Services Authorities Act, 1987 governs legal services activities in the country. The Act was enacted not just to strengthen and institutionalise provision of legal assistance, but to also give a statutory backing to the Lok Adalats which are an effective non-formal system for dispute resolution. The Act is also the fulfilment of the Constitutional assurance of justice – social, economic and political, as well as the Directive Principles of State policy under Article 39A, which mandates the State to provide free legal aid to the poor and the weaker sections of the society. There is emphasis on the creation of a legal system accessible to all, irrespective of socio-economic or other disability.

**Structure/Constitution of Legal Services Institutions.**

The Legal Services Authorities Act 1987, the ‘Act’, provides for an extensive mechanism to reach out to the weaker sections of the society. The organizational structure has been strengthened by the close association of the Judiciary at all levels.

The National Legal Services Authority (NALSA) has been constituted under the Act at the national level to monitor and evaluate the implementation of legal services programmes across the country and to lay down policies and schemes for the State Legal Services Authorities to implement.

The Supreme Court Legal Services Committee has been constituted to administer and implement the legal services programmes insofar as it relates to the Supreme Court of India. Similarly, in every State, a State Legal Services Authority (SLSA) and in every High Court, a High Court Legal Services Committee have been constituted. District Legal Services Authorities, Taluk Legal Services Committees have been constituted in the Districts and most of the Taluks to give effect to the policies and directions of the NALSA and to provide free legal services to the people. All these Authorities and Committees are referred to as Legal Services Institutions for convenience.

The Chief Justice of India is the Patron-in Chief of NALSA. The Senior Most Judge of the Supreme Court is the Executive Chairman. The Central Government, in consultation with Chief Justice of India, appoints the Member Secretary of NALSA, who is a District Judge level officer.

Similarly, at the State level the Chief Justice of the High Court is the Patron-in-Chief of the State Legal Services Authority and the Senior most Judge of the High Court is its Executive Chairman. The Member Secretary at State level is also a senior judicial officer of the higher judicial services. The District Legal Services Authorities are headed by the District Judges as the Chairpersons and at the Taluka level, the senior most judge is the Chairperson of the Committee. Senior Division officers of the State Judicial Services are appointed as Full Time Secretaries of the District Legal Services Authorities.

**Functioning of Legal Services Institutions**

NALSA lays down policies, principles, guidelines and frames effective and economical schemes for the State Legal Services Authorities to implement throughout the country.

Primarily, the State Legal Services Authorities, District Legal Services Authorities, Taluk Legal Services Committees, etc. have been asked to discharge the following main functions:

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\* District and Sessions Judge, Delhi (South-East District) Saket Courts.

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- To Provide Free and Competent Legal Services to the eligible persons;
  - To organize Lok Adalats for amicable settlement of disputes; and
  - To organize legal awareness camps; and
  - To implement the Schemes and policy directions of NALSA through strategic and preventive Legal Services Programmes.

In furtherance of its role NALSA provides funds to the SLSAs. NALSA has framed Regulations for the conduct of Lok Adalats, for the provision of competent legal services and for the setting up of legal services clinics in the villages, community centres, jails and colleges and educational institutions. The NALSA has also framed ten schemes in order to give focused attention to tackle issues relating to specific vulnerable groups such as women, tribals and children amongst others. NALSA has framed schemes to address specific challenges such as disasters and drug addiction and abuse.

NALSA closely monitors the working of these schemes and the expenditure of the allotted funds in these activities.

### **Legal Services to Children**

Section 12(c) of the Legal Services Authorities Act, 1987, provides that a child shall be entitled to legal services for filing or defending a case. Therefore, it is the mandate of the State Legal Service Authorities to provide free legal services to children in conflict with law and work towards speedy disposal of cases. The term “free legal services” includes not only legal assistance but moral, social, psychological and learning assistance to a child and his or her family members, so that the child can plan for and live a dignified life in future. In providing these services, the Legal Services Authorities make use of Para Legal Volunteers who are empanelled by them and undergo the requisite training. The help of voluntary and non- government organisations or the University/ college legal services clinics and student legal literacy clubs is also taken in this regard.

Apart from the Legal Services Authorities Act, 1987, other enactments such as the Juvenile Justice (Care and Protection of Children) Act 2015 and the Protection of Children from Sexual Offences Act 2012, make it obligatory on the Juvenile Justice Board, the Child Welfare Committee, the Children’s Court to provide legal assistance to the child, through the legal services institutions.

### **The key principles that should be kept in mind while providing Legal Services to children in conflict with law**

It should be borne in mind that children do not have a proper understanding of the intricacies of law. They end up violating the law due to immature understanding and impulsiveness. In view of this, the Juvenile Justice (Care and Protection of Children) Act, 2015, has in Section 3 laid down fundamental principles to govern the implementation of the Act. It is important for all agencies to be guided by the said fundamental principles. In the matter of providing legal assistance to children, the following principles have a special relevance:

- Best interests of the child:- Every child has the right to have his or her best interests given primary consideration while providing legal services to the children in need of care and protection and children in conflict with law.
- Welfare of the child:- The welfare of children must always come first, regardless of all other considerations. Early intervention and support should be available to promote the welfare of the child.

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- Right to dignity:- Every child has the right to be treated with dignity and compassion and worth is to be respected and protected.
  - Right to equality and no discrimination:- A child shall be treated without discrimination of any kind, irrespective of the child's caste, race, religion, beliefs, age, family status, culture, language, ethnicity, disabilities if any or place of birth.
  - Principle of right to be heard- Every child has the right to be informed, right to be heard and to express views and concerns freely.
  - Principle of right to safety:- Every child has the right to safety at all stages and he or she shall not be subjected to any harm, abuse or neglect etc.
  - Principle of confidentiality:- The privacy of a child shall be protected by Legal Services Institutions at all levels.

### **Role of Legal Services Panel Lawyers**

Lawyers are selected by the Legal Services Institutions after assessing their commitment and capability. These lawyers may be assigned to the Juvenile Justice Boards, Child Welfare Committees and Children's Courts. They may also be assigned to the Clinics set up at the Juvenile Justice Boards to render legal assistance to children and their parents/guardians. Guidance may be had from the NALSA (Child Friendly Legal Services to Children and their Protection) Scheme 2015 which is included as **Annexure A**, in this material.

It would be useful to read the guidelines issued to the Juvenile Justice Board in compliance of the orders of the Hon'ble Supreme Court of India in *Sampurna Behrua v Union of India & Ors*. These guidelines are **Annexure B**. Though these are intended to guide the Juvenile Justice Boards, they spell out the expectations from the panel lawyers and their role. Panel lawyers are required to interact with every child and parent/support person and understand not just the legal case in which the child is alleged to be involved, but must understand the child's background and the circumstances leading to the alleged involvement and take decisions including for moving bail application keeping the best interest of the child in focus. They should explain and be communicative to the parents/support person so that they understand and appreciate the decision of the panel lawyer. The panel lawyer must explain the proceedings before the Board or Court to the child and his parents/support person. *(Support person is a parent or any other person with whom, the child is comfortable and may include a social worker or a counsellor who may be permitted by the court to be present along with the child even during the recording of her testimony in the court),*

### **Role of Para Legal Volunteers**

The backbone of the Legal Services Institutions are the Para Legal Volunteers (PLVs). The NALSA's Scheme for Para Legal Volunteers (Revised) & Module for the Orientation- Induction- Refresher Courses for Para Legal Volunteers Training is at **Annexure C** to this reading material for ready reference. The panel Lawyers and the Probation officers must understand the crucial role of the PLVs and coordinate with them to be able to provide the best and most effective legal services to the children.

Under the Scheme, the PLVs are selected from amongst Teachers, retired Government servants, MSW students and Teachers, Anganwadi workers, Doctors, Law students, other students, members of non-governmental, voluntary non-political and community based organisations, members of self-help groups and educated long term prisoners with good behaviour (to act as PLVs in jail clinics). In short, they are committed people drawn from the community.\

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The selected persons undergo an orientation programme and training as per the module of NALSA They also attend refresher courses and workshops to develop their skills and understanding. The training includes exposure to basic law and visits to various offices and courts to familiarise them with the judicial and bureaucratic setup. PLVs act as the bridge between the Legal Services Institutions and the marginalised people.

PLVs have varied duties. They are expected to keep a watch on transgressions of law in the community and bring them to the notice of the concerned legal services institutions and initiate action under their guidance. PLVs are assigned to every police station. Here they are expected to assist the parents of missing children, help persons who are accused of committing offences and are arrested and render all assistance to victims of crime. Apart from these duties, the PLVs assist the panel lawyers and man the Front Offices at the offices and Legal Services Clinics of the Legal Services Authorities. PLVs also visit the jails, lock-ups, psychiatric homes and facilities, children's homes, observation homes etc. and bring to the notice of the concerned authorities the needs of the inmates and also report to the legal services institutions the need for any intervention. The PLVs also co-ordinate with the task force and the police teams in respect of rescue operations of trafficked people, child labour and missing children

Given this role of the PLVs, they can very effectively assist the Probation officers and the Juvenile Justice Boards. The PLVs can give all required support to the Child Welfare Police Officers and Special Juvenile Police Units in handling the child and at the same time also taking care of his needs, immediately on apprehension.

The PLVs could interact with the child and help in the preparation of the social background report by the Child Welfare Police Officer that he has to submit to the Juvenile Justice Board.

The PLVs could help in the restoration of children, help in spot visits, help in community enquiry about missing children and trace the parents, or even bring the parents to the Juvenile Justice Board or Children's Court where the child has infringed the law, or before the Child Welfare Committee in other cases of missing children, etc.

The PLVs could support the Probation Officers in preparing the social investigation reports. The PLVs could conduct repeat visits after or with the Probation Officer during the social investigations, particularly in meeting and interacting with the child's family, friends, peer group, school mates and teachers, or the employers. The PLVs could take the child for the expert's assessment and obtain the reports in case the Probation Officer has several investigations to make.

The PLVs could facilitate legal assistance to the children and their families by bringing their concerns to the legal aid lawyers so that there could be effective representation during inquiry and trial. The PLVs can also inform the child and the parents /support person about the progress in the investigations or inquiry or trial.

The PLVs may be able to assist the Probation Officers by visiting the places of safety to assess the conditions in which a child is residing there and to check, between the reporting periods, the progress of the child in respect of the Individual Care Plan, to help the Probation Officers in the submission of the progress reports of the child to the Juvenile Justice Boards and Courts.

It must however be borne in mind that the PLVs cannot take over the functions and responsibilities of the Probation Officers as they are not always MSWs or psychologists or even very highly educated. Therefore, the Probation Officers should not delegate their functions to the PLVs. They can only take assistance from them after seeking proper approvals from the local legal services institutions. Otherwise their reports that they are statutorily required to submit may become vitiated and invalid.

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## **Conclusion**

Ultimately all legal services functionaries such as Legal Services Institutions, panel lawyers and the PLVs must work honestly and diligently to discharge their duties as they stand for protecting the rights of the weakest and most vulnerable and marginalised. They must be ever vigilant to never fail those who have none else to turn to. The burden is indeed an onerous one, but it is also one of the most fulfilling ones!

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## **NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015**

### **1. Introduction and Background**

*“It cannot be questioned that children are amongst the most vulnerable sections in any society. They represent almost one-third of the world’s population, and unless they are provided with proper opportunities, the opportunity of making them grow into responsible citizens of tomorrow will slip out of the hands of the present generation .....”* The said observation made in **Salil Bali Vs.: Union of India (UOI) and Anr, 2013VIIAD (S.C.)** by Supreme Court goes on to show that it is our obligation to the young generation to open up all opportunities including the legal services for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual.

### **2. International Commitments**

- 2.1 While adopting the declaration of the Rights of the Child on 20<sup>th</sup> November, 1959, the General assembly of the United Nations laid down ten principles designed to enable children, irrespective of race, colour, sex, language, religion or origin, to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.
- 2.2 The United Nations standard minimum rules for the administration of Juvenile Justice (“The Beijing Rules,” 1985) call on States to ensure that throughout the proceedings the Juvenile shall have the right to be represented by a Legal Advisor or to apply for free legal aid where there is provision for such aid in the country.
- 2.3 The United Nations Convention on the Rights of the Child (UNCRC) is a comprehensive, internationally binding agreement on the rights of children, adopted by the UN General Assembly in 1989. The purpose of the UNCRC is to outline the basic human rights that should be afforded to children. There are four broad classifications of these rights. These four categories cover all civil, political, social, economic and cultural rights of every child which are as follows:-
  - (a) Survival rights: include the child’s right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services
  - (b) Development rights: include the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion.
  - (c) Protection rights: ensure children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.

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- (d) Participation rights: encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their abilities develop, children are to have increasing opportunities to participate in the activities of their society, in preparation for responsible adulthood.

## 1. Constitutional Assurances

- 3.1 The framers of our Constitution were well aware of the fact that the development of the nation can be achieved by the development of the children of the nation & it is necessary to protect the children from exploitation as well. The Indian constitution accords rights to children as citizens of the country, and in keeping with their special status the State has even enacted special laws. The Constitution, promulgated in 1950, encompasses most rights included in the UN Convention on the Rights of the Child as Fundamental Rights and Directive Principles of State Policy.
- 3.2 It is the constitutional right of every citizen under Article 22 of Constitution of India to be defended by a legal practitioner of his choice. One of the fundamental principles to be followed in the administration of Juvenile Justice is ensuring Legal services at the State expenses. It is a mandatory duty of Legal Services Authority that free legal aid service be made available to every Juvenile.

The following are the provisions of the Indian Constitution relating to children:

- (a) Article 14 provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- (b) Article 15(3) provides that nothing in this Article shall prevent the State from making any special provision for women and children.
- (c) Article 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.
- (d) Article 21A provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.
- (e) Article 23(1) provides that traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- (f) Article 24 provides that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
- (g) Article 29(2) provides that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- (h) Article 39(e) provides that the state shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
- (i) Article 39(f) provides that the state shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

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- (j) Article 45 provides that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.
  - (k) Article 47 provides that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.
  - (l) Article 51A(k) provides that it shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

#### **4. Other Legislations**

Apart from the Constitution there are a number of legislations which deals with children. The following are some of them:

- (a) The Guardian and Wards Act 1890  
This Act deals with the qualifications, appointment & removal of guardians of children by the courts & is applicable to all children irrespective of their religion.
- (b) The Child Labour (Prohibition And Regulation) Act 1986  
This Act came into force to prohibit the engagement of children in certain employments and to improve the conditions of work of children in certain other employments. Under the act “Child” means a person who has not completed his fourteenth year of age. The Act is intended to ban the employment of children i.e., those who have not completed their 14 years in specified occupations and processes.
- (c) The Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act 1994  
This Act provides for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic or chromosomal abnormalities or certain congenital malformation or sex-linked disorders & for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide.
- (d) JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000  
This Act deals with the law relating to juveniles in conflict with law & children in need of care & protection, by providing for proper care, protection & treatment by catering to their development needs & by adopting a child-friendly approach in the adjudication & disposition of matters in the best interest of children & for their ultimate rehabilitation through various institutions established under the Act.
- (e) THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005  
This Act provides for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children’s Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto.
- (f) THE PROHIBITION OF CHILD MARRIAGE ACT, 2006  
This Act restrains the solemnization of child marriages by laying down the minimum age for both boys & girls. According to Section 2(a) of the Prohibition of Child Marriage Act, 2006, a “child” means a person who, if a male, has not completed twenty-one years of age, and if female, has not completed eighteen years of age.

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(g) THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

Article 21A of the Constitution, provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. Parliament has made the law contemplated by Article 21A by enacting the Right of Children to Free and Compulsory Education Act, 2009. This Act provides for free and compulsory education to all children of the age of six to fourteen years.

(h) THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.

## **5. Entitlement to Legal Services**

- 5.1 Children are the beneficiaries of legal services under the Legal Services Authorities Act, 1987. The Act was enacted to constitute legal services authorities for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
- 5.2 Under section 12(c) of Legal Services Authorities Act, 1987 a child who has to file or defend a case is entitled to legal services. Therefore, it is the duty of various State Legal Service Institutions to provide free legal aid to juvenile in conflict with law and work towards speedy disposal of cases.
- 5.3 In this background, the Scheme has been drawn up for the legal services institutions (State Legal Services Authorities, District Legal Services Authorities, Taluk Legal Services Committees, High Court Legal Services Committees, Supreme Court Legal Services Committee) to be followed while they deal with legal services to the children.

## **6. Name of the Scheme**

This Scheme shall be called “**NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015**”

## **7. Definitions**

In this scheme unless the context otherwise requires,

- a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987).
- b) “JJ Act” means The Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000).
- c) “JJ rules” means Juvenile Justice (Care and Protection of Children) Rules, 2007.
- d) “Legal Service” has the same meaning as defined under section 2(c) of Legal Services Authorities Act 1987.
- e) Legal Services Clinic means a clinic as defined under regulation 2 (c) of National Legal Services Authority (Legal Services Clinics) Regulations 2011.
- f) Legal Services Institution means a State Legal Service Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, District Legal Service Authority or Taluk Legal Service committee, as the case may be.

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- g) Panel Lawyer means the panel lawyer selected under Regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010.
  - h) Para Legal Volunteers means a Para Legal Volunteer defined and trained under the NALSA Scheme for Para Legal Volunteers (Revised) and Module for the Orientation – Induction – Refresher Courses for PLV Training and engaged as such by a legal services institution.
  - i) All other words and expressions used but not defined in this Scheme and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authorities Rules, 1995 or National Legal Services (Free and Competent Legal Services) Regulations, 2010 shall have the same meaning respectively assigned to them in the said Act or Rules or Regulations.

## 8. Objective

8.1 In Delhi, 16 year old ‘X’ is accused of stealing a cell phone. In Mumbai, 12- year old ‘Y’ is the victim of sexual abuse. In Calcutta, 10 year old ‘Z’s parents are fighting over his custody. In Chennai, 13-year old ‘S’ was rescued from a factory who found to be trafficked. Everyday children such as these come in contact with the justice system, where formal and informal justice providers make decisions that have the potential to influence the future course of their lives. What rights do these children have when they come in contact with the law? Are they entitled to any type of legal assistance? If so, how might those services best be made available and actually reach children in crisis or in need? How can legal services be made “child friendly” given logistical and financial limitations? And how does the concept of child friendly justice play out in informal justice systems? The purpose of this Scheme is to suggest a conceptual and practical framework for addressing these questions, with the ultimate goal to provide children with meaningful, effective, affordable, and age appropriate legal assistance “on the ground.”

8.2 The main objectives of the Scheme are:-

- i) To outline the basic rights and benefits that should be afforded to children.
- ii) To ensure legal representation to the children in need of care and protection and children in conflict with law at all levels;
- iii) To strengthen legal services, institutional care, counselling and support services at the national, state, district and Taluka levels;
- iv) To create an environment in the juvenile justice system, in which children are valued, encouraged and affirmed and have their rights respected and are treated as individuals.
- v) To enhance capacities at all levels, of all functionaries including, PLVs, Panel Lawyers, counsellors, service providers, NGOs, local bodies, police, judiciary and other concerned departments of State Governments, to undertake responsibilities for providing child friendly legal services;
- vi) To ensure that mandatory authorities and institutions, like Juvenile Justice Boards, Child Welfare Committees, other welfare committees, observation and shelter homes, psychiatric hospital or psychiatric nursing home, commissions, boards, office of probation officers etc. under various child friendly legislations have been set up;
- vii) To have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection;

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- viii) To organise awareness programmes to educate public at large including all stakeholders i.e. PLVs, Panel Lawyers, member of Juvenile Justice Boards and Child Welfare Committees, welfare officers, counsellors, probation officers, police, public prosecutor, judicial officers, care takers of various homes, educational and medical institutions etc., on child rights and their protection on available child protection services, schemes and structures at all levels;
  - ix) To undertake and organise training, orientation and sensitization programs, for senior police officers, SJPU, JWOs, panel lawyers, PLVs, member of Juvenile Justice Boards and Child Welfare Committees, welfare officers, counsellors, probation officers, public prosecutor, judicial officers, care takers of various homes for their skill enhancement and for creating a sense of responsibility amongst them;
  - x) To organize seminars, colloquia, workshops and conferences relating to law and schemes on child rights and allied fields.
  - xi) To develop effective coordination and interface with all Govt. Bodies or functionaries, Institutions, Authorities, NGOs and other Organisations concerning or entrusted with the responsibilities relating to child rights;
  - xii) To Undertake research and documentation to study the various schemes, laws etc. to find out the gaps and then to make suggestions to the appropriate authorities;

**9. The key principles that should be kept in mind by legal services institutions at all levels are:-**

- 9.1 **Best interests of the child:-** Every child has the right to have his or her best interests given primary consideration while providing legal services to the children in need of care and protection and child in conflict with law.
- 9.2 **Welfare of the child:-** The welfare of children must always come first, regardless of all other considerations. Early intervention and support should be available to promote the welfare of the child.
- 9.3 **Right to dignity:-** Every child has the right to be treated with dignity and compassion and its worth is to be respected and protected.
- 9.4 **Right to equality and no discrimination:-** A child shall be treated without discrimination of any kind, irrespective of the child's cast, race, religion, beliefs, age, family status, culture, language, ethnicity, disabilities if any or place of birth.
- 9.5 **Principle of right to be heard-** Every child has right to be informed, right to be heard and to express views and concerns freely .
- 9.6 **Principle of right to safety-** Every child has right to safety at all stages and he or she shall not be subjected to any harm, abuse or neglect etc.
- 9.7 **Principle of confidentiality-** The privacy of a child shall be protected by legal services institutions at all levels.

**10. Plan of Action**

**10.1 Constitution of boards, committees, commissions, etc.**

- (a) Under section 4 of Juvenile Justice Act the State Government has been authorized to constitute Juvenile Justice Board in every district. SLSAs shall ensure that Juvenile Justice Board is established in each district separate from the regular court and where no such

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board has been set up, SLSA will take up the matter on urgent basis with State Government so that Juvenile Justice Boards is established in every district.

- (b) Section 29 Juvenile Justice Act allows the State Government to form Child Welfare Committees in relation to child in need of care in every district. Such committees will consist of a Chairperson and four other members appointed by the State government including one woman. SLSAs shall ensure that Child Welfare Committees are established in each district and where no such committee has been set up, SLSA will take up the matter on urgent basis with State Government so that committee is established in every district.
- (c) Juvenile Justice Act contemplates constitution of Special Juvenile Police Unit (SJPU) to deal with Juvenile in conflict with law. In every police station at least one police officer specially instructed and trained is required to be designated as Juvenile/Child Welfare officer to deal with the Juvenile. (section 63, Juvenile Justice Act and rule 11 of Juvenile Justice Rules). SLSAs shall ensure that such Special Juvenile Police Unit has been established.
- (d) SLSAs shall ensure that list of designated Juvenile Welfare Officers and members of SJPU's with contact details be prominently displayed in every police station in the state.
- (e) Under section 62A of Juvenile Justice Act, every state government shall constitute a child protection unit for the state and for every district to take up the matters relating to children in need of care and protection. SLSAs shall ensure that such child protection Unit has been established.
- (f) Under section 17 of Commission for Protection of Child Rights Act 2005, State is under obligation to constitute State Commissions. SLSAs shall ensure that such commission u/s 17 of Commission for Protection of Child Rights Act 2005 has been constituted and working effectively. (*Re. Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India (UOI) and Ors. (2014)2SCC180*).
- (g) Under section 16 of The Prohibition of Child Marriage Act, 2006, the State Government is authorised to appoint for the whole State, or such part thereof as may be, an officer or officers to be known as the Child Marriage Prohibition Officer to prevent child marriage and to deal the matters connected thereto. SLSA shall take up the matter with state for appointment of the Child Marriage Prohibition Officer, where ever they have not been appointed.

## 10.2 Observation and Shelter Homes

- (a) Juvenile in conflict with law are kept in a home and not in jail or lockup. There are two categories of homes for juveniles in conflict with law, namely observation homes and special homes. Juvenile is kept in the Observation Home pending inquiry against him by the Board and such home are to be established and maintained by the State Government in every district or group of districts (section 8 of Juvenile Justice Act r/w rule 16(1) of Juvenile Justice Rules).
- (b) Similarly, special homes are to be set up in every district or group of district separately for boys and girls to house juveniles, if found guilty on conclusion of inquiry (section 9 of Juvenile Justice Act r/w rule 16(1) of Juvenile Justice Rules).
- (c) Under section 34 of Juvenile Justice Act, State Governments have been empowered to establish and maintain either by themselves or in association with voluntary organizations,

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children home in every district or a group of districts for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation

- (d) SLSAs shall keep the updated record of as to how many institutions i.e. children homes, shelter homes and observation homes, either run by the State Governments or by Voluntary Organisations for Children in need care and protection or children in conflict with law are there in the state.
- (e) All such homes or institutions run by the State Governments or by Voluntary Organisations for Children in need care and protection have to be registered under the provisions of Section 34 of Juvenile Justice Act, read with Rule 71 of the said Act.
- (f) Any unregistered institutions for children in need of care and protection are there then they have to be shut down or taken over by the State Governments. (*Re. Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India (UOI) and Ors. (2014)2 SCC 180*). In this regard SLSAs shall take up the matter with the state Government so that needful could be done in respect of unregistered institutions.
- (g) SLSAs shall ensure that there are observation homes, shelter homes and child care homes in sufficient numbers registered with the government to house the juvenile in conflict with law and child in need of care and protection.
- (h) Each SLSA shall constitute a committee namely “Observation and Children Home Committee” for every district in the state comprising of District Secretary as chairperson, one panel lawyer and probation officer as members. The committee so constituted shall formulate a calendar of its visit to each of home situated in the district at least once in a month.
- (i) Broadly the functions of the committee would be to see that observation homes, special homes and children homes are child friendly and it should not look like a jail or lockup and should have a good quality of care and facilities. It should have sanitation and hygiene, clothing and bedding, meals and diet, medical and mental health care, tie up with local primary health centre, maintaining the health record etc. if anything deficient is noted by the committee then SLSA will take up the matter with concerned authorities for necessary action at their end and shall follow up the matter.

### 10.3 Legal Services Clinics

- (a) SLSAs shall set up Legal Services Clinic at every Juvenile Justice Board and Child Welfare Committee in each district in the state.
- (b) Opening of Legal Services Clinic shall be communicated to all Government bodies, department including Police, NGOs along with relevant contact numbers and addresses of the clinics.
- (c) PLV’s shall be deputed in such clinics.
- (d) SLSAs shall display the contact number and the other information of the clinic in its all offices at state, district and Taluka service level.
- (e) The legal services clinics so established shall be governed by the National Legal Services Authority (Legal aid clinics) regulation 2011 in respect of their functioning, infrastructural facilities, maintenance of record and register, visit of panel lawyers, deputing of PLVs and control over such clinic.

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- (f) All DLSAs shall set up legal literacy club in each of the schools in the District under the control of DLSA with co-ordination with the principals.

#### 10.4 Legal Representations.

##### Statutory provisions

- (a) Under section 12(1) (c) of the Act every child who has to file or defend a case is entitled to free legal services.
- (b) The Board is to ensure free legal aid to all juvenile through State Legal Aid Services Authority or recognized voluntary legal services organisations or the University legal services clinics. [Rule 3.I(d) (iii) r/w 14(2) of Juvenile Justice Rules].
- (c) The Legal Officer in the District Child Protection Unit and the State Legal Aid Services Authority shall extend free legal services to all the Juveniles. [Rule 14(3) of Juvenile Justice Rules].
- (d) Under section 40 of Protection of Children from Sexual Offences Act, 2005, the Legal Services Authority shall provide a lawyer to the family or the guardian of the child, if they are unable to afford a legal counsel.

##### Role of SLSAs

- (a) To meet the requirement of law, SLSAs shall constitute a separate panel of trained and committed advocates to represent child /Juvenile before every forum i.e. Juvenile Justice Boards, Child Welfare Committees etc., so that meaningful and effective legal services could be provided at the ground level.
- (b) SLSAs shall ensure that legal services provided to child or Juvenile is of high quality and that it is effective which requires competent and dedicated panel lawyers at Juvenile Justice Boards and Child Welfare Committees’.
- (c) SLSAs shall supervise and monitor the working of Panel lawyers and have mechanism of surprise check.
- (d) The remuneration to the panel lawyer may be released on the basis of work done report countersigned by the Juvenile Justice Boards or Child Welfare Committees wherever the panel lawyer is deputed.
- (e) SLSA shall ensure an effective coordination between legal officer, panel lawyer and Legal Services clinic established at Juvenile Justice Boards and Child Welfare Committees so that every child is legally represented and provided free legal aid and other necessary support.

#### 10.5 Training and orientation programme

- (a) All SLSAs shall strictly adhere to various guidelines already issued by NALSA for training the designated juvenile / child welfare officers attached to every police station and the members of the special juvenile police unit and also for legal services in juvenile justice institutions in connection with the compliance of the order dated 12.10.2011 and 19.08.2011 of Hon’ble supreme court of India in **Sampurna Behrua v. Union of India & Ors.** in Writ Petition (C) No.473/2005)
- (b) Every State Legal Services Authority shall coordinate with the head of the concerned Police Department to ensure that a Standing Order outlining the roles, responsibilities and functions of Special Juvenile Police Units and Juvenile/ Child Welfare Officers is

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issued. Such Standing Order shall be based on the Juvenile Justice Act, Juvenile Justice Rules / the applicable Rules (If State Government has notified its own Juvenile Justice Rules) and the judgement of the Hon'ble Supreme Court in *Sheela Barse V. Union of India (1986 SCALE (2) 230): (1987)3SC50*. State Legal Services Authority shall render assistance in drafting and preparing such Standing Order. State Legal Services Authority shall also ensure that such Standing Order is translated into local language and is made available at all the Police Stations.

- (c) In order to be effective, the concepts and potential of legal service to serve children must be communicated effectively. This requires that Legal Service Providers, whether they are lawyers, PLVs, Police Officer or Judicial Officers require effective training in how to communicate with children.
- d) Children legal service providers, judicial officer, panel lawyers, police officers, Juvenile Justice Boards, Child Welfare Committees whether or not formally trained with the law, should receive on-going training in the areas of relevance to the rights of the children
- (e) To the extent possible, training in substantive legal concepts and applicable laws, regulations and rules as well as skills training in advocacy should be problem based and interactive
- (f) Law relating to Juveniles is comprised of constitutional provisions, legislations, schemes, reports, international convention, rules. The challenge is how to convey this information in meaningful way to those who are working on the ground on behalf of the children. Therefore, the training material for such functionaries should contain all important information which is necessary for solving the problem of children.

#### **10.6 Legal Awareness**

- (a) All SLSAs shall publish booklets/pamphlets/legal service manual containing the details of the available schemes pertaining to the child rights. Copies of booklets/pamphlets/legal service manual shall be kept available in all front offices, legal services clinics, Juvenile Justice Boards, CVCs, police stations etc.
- (b) Information regarding the above details should also be disseminated through Doordarshan, All India Radio and Community Radio.
- (c) All SLSAs shall spread awareness amongst the public about children rights and their protection in collaboration with educational institutions, State Commission for Protection of Child Rights, NGOs etc.
- (d) Essay competitions, street play competitions, poster making competitions, painting competitions and even debate are other means of spreading awareness of child rights amongst school and college students.
- (e) PLVs may be asked to create an effective outreach campaign through the distribution of posters using child appropriate messaging.
- (f) In addition to informing individual children about their right to legal assistance, it is also important to engage in outreach to communities and public and private agencies as a way of building support for legal empowerment and an effective working relationship with Legal Service providers.
- (g) Many children in need of legal service live in remote rural areas. As a result, the children often find it impossible to physically access legal services where they live. To overcome this barrier, SLSAs may take some initiative including mobile clinic and one Stop Centre

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programmes offering a range of legal services to the children at the same location.

- (h) DLSAs can take the services of PLVs deputed at each police station, in compliance of the direction in *Bachpan Bachao Aandolan vs Union of India*, for conducting initial interviews and investigations, to provide counselling and to work as a link between the children and his or her family.
- (i) Each SLSA shall take up the matter with the State Government so that child rights could be included in the school curriculum of all schools to enable children to know their rights.
- (j) SLSAs shall spread awareness about the newly added provisions of section 357 A CrPC and any Victim Compensation Scheme of the State so that immediate compensation is released to the children.
- (k) Each SLSAs shall develop directory on legal services which must be available ready with all key stake holders.
- (l) Each SLSAs shall organize intensive legal awareness campaigns at all levels about children's right to education as well as fundamental duties of parents to send their children to schools.
- (m) There is a need for creating awareness about the availability of non-institutional services such as adoption, sponsorship and foster care for children.
- (n) SLSAs shall endeavour the accreditation of NGOs having sound credentials and involved in matters of children who are in need of care and protection.
- (o) To eliminate the menace of child labour and to effectuate the mandate of the Constitution, Supreme Court had given a large number of mandatory directions in *M.C. Mehta v. State of Tamil Nadu* reported as (1996) 6 SCC 756. One of the important directions was to direct an employer to pay a compensation of Rs. 20,000/- for having employed a child below the age of 14 years in hazardous work in contravention of Child Labour (Prohibition & Regulation) Act, 1986. The appropriate Government was also directed to contribute a grant/deposit of Rs. 5,000/- for each such child employed in a hazardous job. The said sum of Rs. 25,000/- was to be deposited in a fund to be known as Child Labour Rehabilitation-cum- Welfare Fund and the income from such corpus was to be used for rehabilitation of the rescued child.

All LSAs shall co-ordinate with police, labour department and other authorities concerned for compliance of the aforesaid directions and follow up the matter.

## **11. Database**

All SLSAs shall have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection so that same may be used as and when required for legal awareness and for providing legal services to the Juveniles.

**Guidelines Issued by National Legal Services Authority (NALSA) for Legal Services in Juvenile Justice Institutions in connection with the compliance of the order dated 19.08.2011 of Hon'ble Supreme Court of India in Sampurna Behrua v. Union of India & Ors. W.P.No. (C) No. 473/2005 to establish legal aid centres attached to Juvenile Justice Boards.**

- i. When a child is produced before Board by Police, Board should call the legal aid lawyer in front of it, should introduce juvenile / parents to the lawyer, juvenile and his/her family/parents should be made to understand that it is their right to have legal aid lawyer and that they need not pay any fees to anyone for this.
- ii. Juvenile Justice Boards should give time to legal aid lawyer to interact with juvenile and his/her parents before conducting hearing.
- iii. Juvenile Justice Board should mention in its order that legal aid lawyer has been assigned and name and presence of legal aid lawyers should be mentioned in the order.
- iv. Board should make sure that a child and his parents are given sufficient time to be familiar with legal aid counsel and get time to discuss about the case before hearing is done.
- v. Juvenile Justice Board should make sure that not a single juvenile's case goes without having a legal aid counsel.
- vi. Juvenile Justice Board should issue a certificate of attendance to legal aid lawyers at the end of month and should also verify their work done reports.
- vii. In case of any lapse or misdeed on the part of legal aid lawyers, Board should intimate the State Legal Services Authority and should take corrective step.
- viii. Juvenile Justice Board and the legal Aid lawyers should work in a spirit of understanding, solidarity and coordination. It can bring a sea-change.
- ix. Legal Aid Lawyer should develop good understanding of Juvenile Justice Law and of juvenile delinquency by reading and participating in workshops/ trainings on Juvenile Justice.
- x. Legal Aid Lawyer should maintain a diary at center in which dates of cases are regularly entered.
- xi. If a legal aid lawyer goes on leave or is not able to attend Board on any given day, he/she should ensure that cases are attended by fellow legal aid lawyer in his/her absence and that case is not neglected.
- xii. Legal Aid lawyer should not take legal aid work as a matter of charity and should deliver the best.
- xiii. Legal Aid Lawyer should raise issues/ concerns/ problems in monthly meeting with District Legal Services Authority.
- xiv. Legal Aid Lawyer should maintain file of each case and should make daily entry of proceeding.
- xv. Legal Aid lawyer should not wait for Juvenile Justice Boards to call him/her for taking up a case. There should be effort to take up cases on his/her own by way of approaching families who come to Juvenile Justice Boards.
- xvi. Legal Aid Lawyer should inspire faith and confidence in children/ their families who cases they take up and should make all possible efforts to get them all possible help.

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- xvii. Legal Aid lawyer should abide by the terms and conditions of empanelment on legal Aid Panel.
  - xviii. Legal Aid lawyer should tender his/her monthly work done report to Juvenile Justice Boards within one week of each month for verification and should submit it to concerned authority with attendance certificate for processing payments.
  - xix. Legal Aid Lawyer must inform the client about the next date of hearing and should give his/her phone number to the client so that they could make call at the time of any need.

**Member-Secretary,  
National Legal Services Authority**

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**SCHEME FOR PARA-LEGAL VOLUNTEERS (REVISED)**  
&  
**MODULE FOR THE ORIENTATION - INDUCTION - REFRESHER COURSES FOR  
PLV TRAINING**

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## SCHEME FOR PARA-LEGAL VOLUNTEERS (REVISED)

### INTRODUCTION

During the year 2009 National Legal Services Authority (NALSA) brought out a scheme called the Para-Legal Volunteers Scheme which aimed at imparting legal training to volunteers selected from different walks of life so as to ensure legal aid reaching all sections of people through the process of Para-Legal Volunteers Scheme; ultimately removing the barriers into access to justice. The Para-Legal Volunteers (PLVs) are expected to act as intermediaries bridging the gap between the common people and the Legal Services Institutions to remove impediments in access to justice. Ultimately, the process aims at Legal Services Institutions reaching out to the people at their doorsteps rather than people approaching such Legal Services Institutions.

The western concept of 'Paralegals' cannot be totally adopted to Indian conditions having regard to illiteracy of large sections of the community: The hours of training as applicable to a regular academic course, cannot be adopted. It should be more like a bridge course conceptualised in a simple and need-based module. The PLVs have to be trained in the basics of different Laws which would be applicable at the grassroot level with reference to their day-to-day life, the subtle nuances employed in the working of a judicial system, and the functioning of various other stakeholders like the Police, officials from Social Welfare Department, Woman and Child Welfare Department and other departments dealing with

different beneficial schemes of Central and State Governments including the protection officers involved with Domestic Violence and Juvenile Justice Acts.

With the basic knowledge in the laws and other available welfare measures and legislation, they would be able to assist their immediate neighbourhood; Those who are in need of such assistance, so that a person, who is not aware of such right is not only made to understand his rights, but also will be able to have access to measures involving implementation of such rights.

PLVs are not only expected to impart awareness on laws and the legal system, but they must also be trained to counsel and amicably settle simple disputes between the parties at the source itself; which could save the trouble of the affected travelling all the way to the Legal Services Authority/ADR Centres. If the dispute is of such a nature, which cannot be resolved at the source with the assistance of PLVs, they could bring such parties to the ADR Centres, where, with the assistance of the Secretary in charge either it could be referred to Lok Adalat or Mediation Centre or Legal assistance could be provided for adjudication in a court of law; depending upon the nature of problem.

Though initially the NALSA Scheme of training of the PLVs included the legal fraternity of Advocates, Advocate community, later on experience revealed, the same to be unfeasible on account of conflict with the professional status of Advocates. The reality that marginalised people living in distant places will not have the benefit of lawyer PLVs also contributed to the practice being discontinued, and NALSA deciding that Advocates shall not be enlisted or engaged as PLVs.

The past experience gained from the working of the system after 2009 and also ground realities ascertained from the paralegals in the respective jurisdiction showed us that there has to be a re-look into the entire matter and who best could fit the role of a Para-Legal Volunteer. Initially, the training programme of PLVs was only for two-three days. Since the obligations of PLVs were vast in nature, it was felt, there has to be longer duration of training provided to the PLVs. At the same time, the training curriculum for PLVs adopted by NALSA cannot be such as to be training PLVs to become full-fledged lawyers. PLVs are not expected to conduct themselves as legal professionals. The aim of the training should concentrate on basic human qualities like compassion, empathy and a genuine

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concern and willingness to extend voluntary service without expectation of monetary gain from it. Then the line separating PLVs from professional lawyers should be zealously guarded.

### **MODALITIES**

- Ideally every Taluk Legal Services Committee (TLSC) shall have a panel of PLVs; of a maximum number of 25 (50) on their roll at any given point of time. The District Legal Services Authority (DLSA) shall have 50 (100) active PLVs on their roll.
- PLVs shall be literate, preferably matriculate, with a capacity for overall comprehension.
- Preferably PLVs shall be selected from persons, who do not look up to the income they derive from their services as PLVs, but they should have a mind-set to assist the needy in the society coupled with the compassion, empathy and concern for the upliftment of marginalised and weaker sections of the society. They must have unflinching commitment towards the cause which should be translated into the work they undertake.

### **GROUPS from whom Para-Legal Volunteers can be selected**

- Teachers (including retired teachers)
- Retired Government servants and senior citizens.
- M.S.W students and teachers.
- Anganwadi Workers.
- Doctors/Physicians.
- Students & Law Students (till they enroll as lawyers).
- Members of non-political, service oriented NGOs and Clubs.
- Members of Women Neighbourhood Groups, Maithri Sanghams and other Self Help Groups including of marginalized/vulnerable groups.
- Educated prisoners with good behaviour, serving long term sentences in prisons.
- Any other person whom the District Legal Services Authority or Taluk Legal Services Committee deems fit to be identified as PLVs.

### **Selection of PLVs - District Level**

Selecting the PLVs shall be by a Committee chaired by the Chairman of the District Legal Services Authority. The Secretary shall be one of the Members of the Committee. The Committee shall consist in all of three members including the Chairman and the Secretary shall be one of the Members of the Committee. The third member, to be appointed at the discretion of the Chairman of the DLSA, shall be one capable of identifying suitable persons, who could be trained as PLVs. This selection process shall not be entrusted to any other body.

### **Selection of PLVs - Taluk Level**

The Chairman of the District Legal Services Authority shall constitute a Committee consisting of the Chairman of DLSA, Member Secretary of DLSA and the Chairman of TLSC and a fourth person at the discretion of the Chairman of DLSA. The place of interview for Taluk Level PLVs shall be at the discretion of the Chairman of DLSA. The Member Secretary of DLSA shall co-ordinate with the selection process.

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### **Empanelment process**

Applications may be invited from the local residents by the respective DLSAs and TLSCs or Sub Divisional Legal Services Committee. There could be an advertisement, if required. Copies of either the advertisement or notice calling for applications could be sent to the offices of the Bar Association, Notice Board of the Court premises, Legal Services Authority Offices and District Panchayat Offices. The advertisement shall state the qualifications required for selection as PLVs as stated above with last date for the receipt of applications at the office of DLSA. There shall be a column in the application, wherein the candidate has to express willingness or place of preference to work at either district-level or taluk-level or village-level. In the advertisement there shall be clear mentioning that the work of PLVs does not carry any salary, remuneration or wages except honorarium fixed by the DLSA from time to time.

### **Method of Selection**

The Selection Committee is entitled to use its discretion and shortlist the number of candidates for interview depending upon the number of applications received. Preference shall be given to women while selecting PLVs. Representation from suitable applicants belonging to SC/ST, minority and other backward classes must be ensured.

### **Training of PLVs**

Under the supervision of Chairman of DLSA, PLVs shall undergo training programme, totally under the control of the Member Secretary. The training shall be held at a convenient place subject to discretion of the Chairman of DLSA. The number of PLVs to be trained at any given point of time in a training programme shall not exceed 50. Wherever the State Judicial Academy has facilities for training, the same may be availed of. The expenses for the training shall be incurred by the Judicial Academy for providing such facility to be reimbursed by the State Government/DLSA concerned.

### **Trainers/Resource Persons**

- In consultation with the State Legal Services Authority, the Chairman of DLSA shall identify the trainers for training the PLVs and other resource persons.
- Suitable persons from the members of the Bar with training skills shall be included in the list of resource persons.
- Others could include:
- NGOs associated with the activities of Legal Services Authority, i.e., persons, who are exposed to the nature of work of the Legal Services Authority.
- Master Trainers of mediation.
- Law Teachers from Law Colleges.
- Post-Graduate students of Law.
- Retired Professors of Law.
- Retired Judicial Officers.
- Revenue Officers.
- Officers from Social Welfare Department,.
- Public Prosecutors.

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- Police Officers.
  - Psychiatrists/Psychologists/Mental Health experts.

### **Nature of Training**

Training that is to be provided to the PLVs would be in accordance with the curriculum prescribed by the NALSA and will be in the following formant:

- (a) Orientation Programme.
- (b) Basic training.
- (c) Refresher course.

There shall be periodical refresher training in order to assess the quality of work turned out by the PLVs. The Legal Services Authorities need to assess the work of PLVs and assist them to identify the deficits and how to tackle the problems faced by the PLVs after their experience in the field. There shall be annual congregation of PLVs so as to facilitate an exchange of experience. There shall be district-wise half-yearly meetings of PLVs to resolve their doubts and facilitate

the acquisition of knowledge and upgradation of their skills as per the module.

PLVs shall create awareness among citizens of the benefits of settlement of pending cases through Lok Adalats including the fact that the parties are entitled

to refund of court fee and that there shall be no appeal.

### **Topics for Training**

A uniform training module for PLVs shall be prepared by NALSA which shall be applicable to the entire country and the module shall have a special emphasis on the conduct and behaviour of PLVs. The module so prepared shall be translated into regional languages.

### **Identity Cards**

After completion of the training by the District Legal Services Authority, the PLVs may be subjected to a written and oral test before the PLVs are declared to have successfully completed the training. On being declared successful, they may be given identity cards bearing the emblem of the District Legal Services Authority. The identity card shall have (i) serial number; (ii) name and address of the PLV; (iii) contact number of the PLV; (iv) photograph of the PLV; (v) the date of issue and the period of validity of the identity card. It shall be clearly printed on the reverse side of the identity card that the loss of the identity card should be reported to the nearest Police Station as also its recovery.

The identity card shall not be used for availing of travelling concession either in bus or in any mode of transport.

It shall not be used for availing of any governmental benefits or loan by the holder of the card.

The identity card shall not be used for availing of any other facilities, except for the purpose of identification of the person as PLV.

### **Validity of Identity Cards**

The validity of the identity card shall be for a period of one year. A new card shall be issued to the PLV, if the Chairman, District Legal Services Authority finds him/her eligible to continue as PLVs for more than one year.

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### **Mentors for PLVs**

DLSA and TLSC shall maintain a panel of Mentors/Guides whom the PLVs could contact in case of any clarification or assistance in connection with the discharge of their duties as PLVs. There shall not be more than ten PLVs for one Mentor.

### **Monthly Reports**

A monthly report of the existing PLVs, PLVs newly recruited and the training given to the PLVs shall be submitted by the DLSA to the SLSA. The SLSA shall

submit a consolidated report of the details of the number of PLVs trained, the resource persons engaged, expenses incurred and the refresher courses, if any,

organised, pertaining to each month, to the National Legal Services Authority before 15th day of every month.

NALSA shall cause the copies of such reports sent to the National Committee for Para-Legal Training and Legal Aid Activities set-up by the Chief Justice of India.

The SLSAs shall submit to the NALSA a consolidated District-wise report on the activities of the PLVs, specifically the number of persons attended and the nature of advice given and action taken.

### **Duties of Trained Para-Legal Volunteers**

Para-Legal Volunteer shall educate people, especially those belonging to weaker sections of the society, to enable them to be aware of their right to live with human dignity, to enjoy all the constitutionally and statutorily guaranteed rights as also the duties and discharge of obligations as per law.

Para-Legal Volunteers shall make people aware of the nature of their disputes/issues/problems and inform them that they can approach the TLSC/DLSA/HCLSC/SLSA/SCLSC so as to resolve the dispute/issue/problems through these institutions.

Para-Legal Volunteers shall constantly keep a watch on transgressions of law or acts of injustice in their area of operation and bring them immediately to the notice of the TLSC through telephonic message or a written communication or in person to enable effective remedial action by the Committee.

When the PLV receives information about the arrest of a person in the locality, the PLV shall visit the Police Station and ensure that the arrested person gets legal assistance, if necessary, through the nearest legal services institutions.

The PLVs shall also ensure that the victims of crime also get proper care and attention. Efforts shall be made by the PLVs to secure compensation for the victims of crime under the provisions of Section 357-A Cr.P.C.

PLVs shall, with proper authorization from the DLSA/TLSC visit jails, lock-ups, psychiatric hospitals, children's homes/observation homes and shall ascertain the legal service needs of the inmates and intimate the authorities concerned about any absence noticed of basic essential necessities with special emphasis on hygiene.

PLVs shall report violations of child rights, child labour, missing children and trafficking of girl children to the nearest legal services institutions or to the child welfare committee.

Para-Legal Volunteers shall assist the DLSA/TLSC for organizing legal awareness camps in their area of operation.

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Para-Legal Volunteers shall give information to the people of their locality about the legal services activities of SLSA/DLSA/TLSC/HCLSC/SCLSC and shall provide their addresses to the people so as to enable them to utilize the free services rendered by the above organizations to the eligible persons.

Para-Legal Volunteers shall generate awareness amongst people about the benefits of settlement of disputes including pre-litigation stage through Lok Adalats, Conciliation, Mediation and Arbitration.

Para-Legal Volunteers shall make people aware of the benefits of inexpensive settlement of disputes relating to Public Utility Services like P&T, Telephones, Electricity, Water Supply, Insurance and hospital services through Permanent Lok Adalat (PLA).

Para-Legal Volunteers shall submit monthly reports of their activities to the DLSA/TLSC under whom they are working in the prescribed format.

A diary to record the daily activities shall be maintained by each PLVs. The diary shall be printed and given to PLVs by the District Legal Services Authority. Such diary shall be verified and endorsed by the Secretary, DLSA or the Chairman, TLSC as the case may be.

Para-Legal Volunteers shall see that publicity materials on legal services activities are exhibited at prominent places in their area of activity.

#### **Expenses incurred by Para-Legal Volunteers**

Reasonable expenses incurred by Para-Legal Volunteers e.g. Bus/Train fare, Postage, Telephone charges etc., may be reimbursed by the TLSC/DLSA/SLSA, on production of proof. Travel expenses limited to the lowest classes by road/rail/steamer to the legal aid beneficiaries brought by the Para-Legal Volunteers also may be reimbursed at the discretion of the Chairman.

The rate of daily honorarium payable to PLVs on the days of their engagement as such in metro-cities may be as determined by the SLSA.

The PLVs are not entitled to any travel expenses when they use the transport provided by SLSA/DLSA/TLSC.

#### **Para-Legal Volunteers to work in the 'Front Offices' of the DLSA/TLSCs.**

The Secretary, DLSA or TLSC may depute one or more PLVs to operate the 'front offices' of the legal services institutions.

#### **Para-Legal Volunteers to work in the 'Legal Aid Clinics' of the DLSA/TLSCs.**

The Secretary, DLSA or TLSC may depute PLVs in the Legal Aid Clinics set up under the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011. The PLVs engaged in the Legal Aid Clinics shall function in such clinics in accordance with the provisions of the aforesaid regulations.

#### **Honorarium for the PLVs rendering services in the Legal Aid Clinics and Front Offices.**

The State Legal Services Authority in consultation with the National Legal Services Authority may fix an honorarium for the PLVs engaged in the legal aid clinics.

However, such honorarium for those who have rendered services on any day shall not be less than Rs.250/- per day.

The PLVs who bring legal aid applicants from the distant villages to the legal services institutions at the Taluk/District level and to the District ADR Centers shall also be eligible to receive honorarium for such day at the same rate.

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PLVs shall also be eligible for honorarium if on any particular day they assist persons in connection with the PLV work by accompanying such persons to various offices including Courts, however, subject to proof.

**Para-Legal Volunteers to assist in the legal literacy classes and camps.**

The PLVs in consultation with the nearest legal services institutions shall organise micro-legal literacy camps in the area of their operation by organising legal literacy classes for small groups of persons including labourers, women, children members of SC/ST etc. It shall be the duty of the PLVs to distribute information booklets and other publications of the Legal Services Authorities during the legal literacy classes.

**Resolving local disputes through ADR mechanism.**

The PLVs shall take efforts to bring the parties of the locality involved in disputes, to settlement, by using the machinery of Lok Adalat, Mediation or Conciliation at the District ADR Centers. If no District ADR Center has been set up in the District, the legal services institutions shall take steps for organising a suitable ADR mechanism like Lok Adalat, mediation, conciliation etc. in the village itself in coordination with the PLVs. The PLVs who bring such cases to the ADR process shall be entitled to receive the prescribed honorarium on the day when such proceedings are held.

**Para-Legal Volunteers in Jails.**

A few educated well-behaved prisoners serving long term sentences in the Central Prison and District Prisons may be identified for being trained as Para Legal Volunteers. Their services shall be available to the other prisoners in the jail including the under trial prisoners. The training of such PLVs may be conducted along with the other PLVs.

**Payment.**

They will be entitled to be paid as PLVs for the services rendered at the prescribed rate of honorarium payable to other PLVs.

**Disqualifications of Para-Legal Volunteers and their removal.**

- The PLVs shall be disqualified and removed from the panel if he/she:
- Fails to evince interest in the Scheme.
- Has been adjudged insolvent.
- Has been accused of an offence.
- Has become physically or mentally incapable of acting as PLVs.
- Has so abused his/her position or misconducted in any manner as to render his/her continuance prejudicial to the public interest.
- If she/he is an active political enthusiast of a political party. Any such Para-Legal Volunteer may be removed by the Chairman, District Legal Services Authority after suitable enquiry and intimation of the same should be sent to the State Legal Services Authority.

**National level meetings of Para-Legal Volunteers.**

The State Legal Services Authority may select suitable PLVs for attending the National Level programmes relating to PLVs to be organised by the National Legal Services Authority as the case may be. The State Legal Services Authority may recommend the names of PLVs who have given outstanding service for considering such PLVs for National awards to be instituted by the National Legal Services Authority.

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**The District Legal Services Authority to maintain a database of all Para-Legal Volunteers in the District.**

The District Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the details of the para-legal volunteers of District Authority and Taluk/Mandal/Sub-divisional Committees, their names, addresses, telephone/cell phone number, e-mail ID (if any), number and date of expiry of the identity card issued.

**The State Legal Services Authority to maintain a database of all Para-Legal Volunteers in the State.**

The State Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the district wise details of the names of para-legal volunteers, their addresses, telephone/cell phone numbers, e-mail ID (if any), number and date of expiry of the identity card issued.

The Legal Services Authorities to work in co-ordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India.

The State, District and Taluk level legal services institutions shall work in coordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India. The directions, if any, given by the Hon'ble Chairman of the National Committee for Para-Legal Training and Legal Aid Activities shall be binding on all legal services institutions in the country.

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## **MODULE FOR THE ORIENTATION - INDUCTION - REFRESHER COURSES FOR PLV TRAINING**

### **I. ORIENTATION COURSE**

Immediately upon initial empanelment the PLVs shall be given a day's orientation course.

#### **Course objectives:**

The objective of the Orientation Programme is to provide an overview of the role of the PLVs and lay down the Code of Ethics that they will be required to be adhered to.

The Orientation Programme should include inter alia the following:

- Introductions and Ice-Breaking Session
- Purpose & Role of PLVs.
- Basic Structure of the Constitution - Preamble etc.
- Obligations of the State under the Constitution to the marginalised classes of society (Directive Principles of State Policy)
- Fundamental Rights (including Articles 14,15,16,19,21,22)
- Duties of a responsible citizen to the community (Fundamental Duties).
- Article 39 A and Legal Services Authorities Act, 1987 and NALSA Regulations.
- Do's and Don'ts for PLVs.
- Dress Code and Standards of behaviour.
- Materials
- Ethics.

### **II. INDUCTION COURSE**

The induction training will be for a period of four days and should cover the following topics:

- Basic listening, communication, observation skills and Drafting skills.
- Family Laws (Marriage Laws, Adoption, Maintenance, Custody and Guardianship, Judicial separation & Divorce).
- Property Laws (Inheritance, Transfers of immovable property, Registration, Revenue Laws).
- Criminal Laws (IPC & Cr.P.C {minimum required knowledge, especially, bail, arrest etc. S.357 A Cr.P.C., Rights of Prisoners under Jail Manual and Prisoner's Act etc.}).
- Labour Laws (Minimum Wages Act 1948, Workmen's Compensation Act 1923, Unorganised Workers Welfare and Social Security Act 2008, The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, The Industrial Disputes Act, 1947 (Briefly), legal assistance under the NALSA Scheme (Legal Services to the Workers in the Unorganised Sector) Scheme, 2010.
- Gender Centric Laws/Women Laws - Equal Remuneration Act 1976, Maternity Benefit Act 1961, Protection of Women from Domestic Violence Act 2005, Medical Termination of Pregnancy Act 1971, Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Sexual Harassment at Workplace, Important provisions of IPC - Sections 509, 354, 376, 304B, 366, 498A, 494, Dowry Prohibition Act, 1961.
- Laws relating to children - Juvenile Justice (Care and Protection of Children) Act, 2000, The Child Labour (Prohibition and Regulation) Act of 1986, Missing Children, The Factories Act 1948, Prohibition of Child Marriage Act, 2006.

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- SC & ST (Prevention of Atrocities) Act, 1989 and The Protection of Civil Rights Act, 1955.
  - Government orders and schemes promoting social welfare, including MNREGA, Social Security Schemes (pensions, antodaya, insurance etc.), obtaining various certificates (such as caste, disability, birth, income etc.), obtaining ration card, Aadhar card, National Population Register, Voter ID-card, etc., obtaining Passport.
  - Visits to Govt. Offices, Courts, Police Stations, Prisons, Revenue Offices, DLSAs, TLSCs etc. Interaction with Protection Officers, Child Welfare Committees/Juvenile Justice Boards, appropriate authority under PCPNDT Act, 1994 etc.

### **III. ADVANCE TRAINING**

After the PLVs have had field experience for three months it is important that an advanced training programme is conducted lasting for three days. The occasion should be utilized by the Chairpersons of the DLSAs to discuss the work done by the PLVs, the shortcomings generally noticed and their continuance. The Mentors should also participate in this programme for guiding the PLVs to resolve the problems faced by the PLVs in the discharge of their duties and public interaction. The Chairpersons of the DLSAs should also obtain feedback from the PLVs in order to remove administrative bottlenecks. During this training programme the PLVs should be introduced to Special laws which could include:

- Right to Information Act, 2005
- Motor Vehicles Act, 1988
- Mental Health Act, 1987 and legal assistance under the NALSA scheme Legal Services to the mentally ill Persons and Persons with Mental Disabilities) Scheme, 2010.
- Maintenance and Welfare of Parents and Senior Citizens Act, 2007.
- Right to Education Act, 2009
- Alternate Dispute Resolution (S 89 C.P.C.)
- Basic skills in mediation and counselling
- Lok Adalat, including pre-litigation and its benefits.
- Plea-bargaining
- Rights of marginalised groups such as those living with HIV/AIDS, Disabled, trans genders etc.
- The Immoral Traffic (Prevention) Act, 1956 and issues relating to sex workers.
- Disaster Management and Legal assistance to victims of disaster under the NALSA Scheme - Legal Services to Disaster Victims through Legal Services Authorities.
- Environmental issues
- The Protection of Children from Sexual Offences Act, 2012.

Ideally, the SLSAs should by itself or through the DLSAs organize workshops at regular intervals on special topics which could be for a day or two. These should be need based, that is to say, if on a review of the working of the PLVs, the SLSAs/DLSAs feel that certain subjects need to be revisited and discussed again or that in a given area certain issues exist which need to be addressed or tackled and which have not been dealt with by the prescribed course content, such topics and issues should be discussed in the one day/two days' workshops.

Inter-District workshops should be organised by the SLSAs for a day to encourage experience sharing and introduction of better practices. Good work done could be recognised and appreciated and commendation certificates given on the occasion.

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Session XIII  
11.15 AM - 1.00 PM  
2.00 PM - 3.00 PM  
Total Time: 2 Hours 45 minutes

**MODULE FOR TRAINING OF LEGAL SERVICE LAWYERS AND PROBATION OFFICERS ATTACHED TO THE JUVENILE JUSTICE BOARDS ON THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015 WITH REFERENCE TO JUVENILES IN CONFLICT WITH LAW: SUBSTANTIVE PROVISIONS AND CASE LAW**

— *Geetanjli Goel\**

**SESSION PLAN**

**Objective**

1. To provide the young lawyers grounding in law relating to children in conflict with law including the key concepts and the case law on the subject.
2. To give them clear perspective of the nature of inquiry before the Juvenile Justice Board and steps for rehabilitation of children in conflict with law.
3. To give them an understanding of the proceedings before the Juvenile Justice Board and the rights of the children.
4. To familiarize them with the institutions provided under the Act for children in conflict with law.
5. To sensitize them so that they can effectively interact with and represent the children.

**Expected learning outcome**

1. Participants will be able to interact with children in conflict with law keeping in mind the objectives of the Act and with the required sensitivity.
2. Participants will be able to argue for and against declaration of a person as a child under the Act.
3. Participants will be able to draft application for bail on behalf of the child under the Act.
4. Participants will be able to defend the child in an inquiry against him before the Juvenile Justice Board and argue on the dispositional order to be passed.
5. Participants will be able to take up proceedings pertaining to 'children' in regular courts, as and when the occasion arises.

**Programme**

- 1. Introduction:** 20 minutes

The resource person will familiarise the participants with the objectives behind having a separate legislation for children in conflict with law and introduce the scheme of the Act. He/she can introduce the important terms under the Act, institutions provided under the Act and discuss the scope of inquiry before the Juvenile Justice Board and how the provisions of the Act can enable the rehabilitation of the children and their reintegration in the society and inform the participants about the case law on the subject.

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\* Director, National Legal Services Authority and Officer of Delhi Higher Judicial Service.

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2. **Group Discussions:** Presentation and group discussions: 1 hour 55 minutes
    - a. Group discussion 30 minutes
    - b. Presentation and whole group discussion 1 hour 25 minutes

Participants will be divided in groups of 4-6. Each group will be asked to find the answers to the questions in one of the readings of the cases. Each group will present its views to the whole group for a whole group discussion. The resource person will provide the points missed by the participants and will present a wholesome view of the topics.

3. **Quiz** 25 minutes

This is not a competitive or evaluative quiz but only questions raised to evoke previous experience and to generate a discussion/ confirm the learning that happened during the group discussion. This is an individual exercise. The participants will be given 10 minutes' time to answer the questions. This will be followed by the trainer compiling/asking for the answers and raising a discussion giving the law on the subject.

4. **Concluding Remarks** 5 minutes

The remarks can be made at the end by the trainer or by one of the participants or by the dignitary, if any, invited to inspire the participants.

**Training Methods and tools:**

1. Lecture
2. PPT
3. Group Discussion & Presentation
4. Quiz

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### **Reading for Group Discussion-I**

The prosecution case is that Atul had kidnapped a four year old boy. He allegedly murdered the boy and disposed of the body. Thereafter he started making ransom calls to the parents of the boy spread over one month. On the date of kidnapping the boy Atul was a child but on the date of the alleged murder and making the ransom calls, he was an adult.

On interviewing Atul you find the following facts which he can raise:

1. Atul was a child when he kidnapped the boy.
2. He took the boy to several places and when the boy became demanding, Atul fired from a country made revolver and the boy died.
3. Atul was studying in class 10.
4. He states that he had only wanted to kidnap the boy to teach his parents a lesson who had scolded him once.
5. Atul only intended to threaten the kidnapped boy to silence him but did not intend to kill him.

#### **Questions for group discussion**

1. Can Atul raise the plea of juvenility and if so, how would you proceed with the matter?
2. What factors would you argue in support of the plea of juvenility?
3. Would you also move an application for bail?

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### **Reading for Group Discussion-II**

Rohit, who is 15 years old is alleged to have committed robbery and also to have murdered the victim. He is apprehended by the police and produced before the Juvenile Justice Board.

The case has been assigned to you for moving bail application.

On interacting with Rohit you find the following facts which he can raise:

1. He wanted money for buying a motorcycle for himself as all his other friends had motorcycles.
2. He murdered the victim out of fear that he would recognise him.
3. He was studying in class X.
4. He was remorseful of his conduct.
5. He came from a stable family.

#### **Questions for group discussion**

1. Can Rohit seek bail under the Act?
2. What would be the frame of your application?
3. What factors would you plead before the JJB so that Rohit gets bail?
4. What factors would you keep in mind while interacting with Rohit?
5. Would it make a difference to the plea for bail if Rohit were 17 years old on the date of commission of offence? And in that case, what would you argue before the JJB at the time of preliminary assessment so that Rohit gets treated as a child?

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### **Reading for Group Discussion - III**

Subhash is a 13 year old boy who is found to have raped a 4 year old girl. The matter is fixed for arguments on the dispositional order.

The case has been assigned to you.

On interacting with Subhash you find the following facts:

1. He was from a poor background and was living in a one room tenement with his parents and three siblings.
2. His mother was working and after his mother left for work, his neighbour would call him to his house and they would watch pornographic material.
3. He had seen the brother of the victim doing the same thing with another girl.
4. His curiosity was aroused and he felt that there was nothing wrong in doing it.
5. He found the victim playing in the park and he took her to a corner and did it with her.
6. He had studied till class IIIrd and thereafter he had not gone to school.

#### **Questions for group discussion**

1. What would be your prayer before the JJB?
2. What factors would you put forth for a lenient view in the case?
3. Would you suggest some rehabilitative steps that could be taken for the child?
4. What would be the impact of the Social Investigation Report in the case?

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### **Reading for Group Discussion-IV**

Sumit, aged about 17 years is apprehended by the police on allegation that he had stolen the mobile of his employer. However, the mobile is not traced from him. The police take him to the police station and keep him in the lock up there. In between they take him out of the lock up and beat him up several times to find out where the mobile is. But Sumit continuously maintains the stand that he had not stolen the mobile. He also keeps asking to be allowed to meet his parents. Not having succeeded in getting him to 'tell' where the mobile is, the police make him write a 'confession' to the effect that he had stolen the mobile and sold it to someone for Rs.500/-. After one day he is kept in a children's home for the night and thereafter produced before the JJB.

#### **Questions for group discussion**

1. Are there any violations of the rights of Sumit that you notice?
2. What would you do for Sumit as a legal services lawyer?

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## Solutions to the Readings for Group Discussions

### **Reading for Group Discussion-I**

#### **Answers to Questions for Group Discussion**

1. Can Atul raise the plea of juvenility and if so, how would you proceed with the matter?  
Atul can raise the plea of juvenility as he was less than 18 years old at the time of kidnapping the boy. However the plea may not ultimately succeed in view of the judgment of the Supreme Court in **Vikas Chaudhary v. State of NCT of Delhi** (2010) 8 SCC 508. (Please see Part D of the short note)
2. What factors would you argue in support of the plea of juvenility?  
(Please see Part E of the short note)
3. Would you also move an application for bail?  
(Please see Part G of the short note)

### **Reading for Group Discussion-II**

#### **Answers to Questions for Group Discussion**

1. Can Rohit seek bail under the Act?  
Yes, Rohit can seek bail under the Act.
2. What would be the frame of your application?  
All the factors in favour of Rohit would be included in the same as also the legal position under the JJ Act. (Please see Part G of the short note)
3. What factors would you plead before the JJB so that Rohit gets bail?  
That he came from a stable family and he was remorseful of his conduct. Further he was studying in school. You would also plead that gravity of offence is immaterial and a child has a right to bail under the Act.
4. What factors would you keep in mind while interacting with Rohit?  
(Please see Fundamental Principles contained in Part A and Part O of the short note).
5. Would it make a difference to the plea for bail if Rohit were 17 years old on the date of commission of offence? And in that case, what would you argue before the JJB at the time of preliminary assessment so that Rohit gets treated as a child?  
Even if Rohit was 17 years old on the date of the commission of the offence, it would make no difference to the plea for bail.  
For the arguments at the time of preliminary assessment, please refer to Part H of the short note and you would stress that Rohit did not have the mental capacity to commit such offence or the ability of the child to understand the consequences of the offence. You would also emphasise the circumstances in which Rohit allegedly committed the offence i.e. he murdered the victim out of fear that he would recognize him and also that Rohit was remorseful of his conduct.

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### **Reading for Group Discussion-III**

#### **Answers to Questions for Group Discussion**

1. What would be your prayer before the JJB?

That a lenient view should be taken and he should not be sent to special home. Further that the child be allowed to reform and rehabilitate himself and it was his circumstances which led him to commit the offence.

2. What factors would you put forth for a lenient view in the case?

All the factors referred to above which came out during interaction with him. Further the legal position is also to be argued that the purpose of JJ Act is reformation and rehabilitation and sending to Home should be the last resort.

3. Would you suggest some rehabilitative steps that could be taken for the child?

Yes. Such as his family could be directed to enroll him in a school and he could be released on probation with the probation officer monitoring his conduct and sending regular reports about the child to the Board.

4. What would be the impact of the Social Investigation Report in the case?

A positive SIR would favour the case of the child as the Board is to obtain SIR before passing the dispositional order and consider it at the time of passing the order.

(Please refer to Part I of the short note)

### **Reading for Group Discussion-IV**

#### **Answers to Questions for Group Discussion**

1. Are there any violations of the rights of Sumit that you notice?

2. What would you do for Sumit as a legal services lawyer?

(For detailed discussion please refer to Parts F, N and O of the short note).

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**QUIZ ON JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)  
ACT, 2015**

*Time: 10 minutes*

**Please tick the correct answer:**

- 1. Does the Juvenile Justice (Care and Protection of Children) Act, 2015 violate the guarantee of equality under the Constitution of India?**
  - a) Yes
  - b) No.
- 2. As per the figures of the National Crime Records Bureau, the percentage of IPC crimes committed by children to total IPC crimes reported in the country in 2013 was:**
  - a) Less than 1%
  - b) 1% to 2%
  - c) 3% to 5%
  - d) 6% to 10%
- 3. Which of the following documents can be considered by the Juvenile Justice Board/court for the purpose of age inquiry?**
  - a) Janam patri (horoscope)
  - b) Voter identity card
  - c) Matriculation certificat
  - d) Affidavit of the father of the child given before the Board regarding the date of birth.
- 4. On which of the following grounds bail cannot be denied to a child?**
  - a) Release of the child is likely to bring him into association with any known criminal.
  - b) Release is likely to expose him to moral, physical or psychological danger.
  - c) His release would defeat the ends of justice.
  - d) The child has committed the offence of murder.
- 5. Can a child be tried together with the adult accused for an offence?**
  - a) Yes
  - b) No
- 6. A child who attains majority during the pendency of the proceedings, if found to have committed an offence, can be sent to:**
  - a) Observation Home
  - b) Special Home/ Place of Safety
  - c) Jail
  - d) None of the above
- 7. A person who on the date of commission of offence of murder was less than 18 years but on the date of his arrest/ apprehension is more than 18 years would be produced before:**
  - a) Juvenile Justice Board
  - b) Child Welfare Committee
  - c) Court of Judicial Magistrate/ Metropolitan Magistrate
  - d) Sessions Court
- 8. In an offence other than a heinous offence which is alleged against a child, an FIR is to be registered:**
  - a) in every case
  - b) only where an adult accused is involved

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- c) against the adult accused but the child is to be let off
  - d) in none of the cases

**9. In case of a petty or serious offence, the final report (charge sheet/ challan) against a child is to be filed before the Juvenile Justice Board within:**

- a) two months of the date of information to the police
- b) six months of the date of commission of offence
- c) as per the limitation prescribed under Cr.P.C.
- d) any time

**10. When a child of 15 years is found to have committed an offence of murder, the Juvenile Justice Board may impose:**

- a) life imprisonment
- b) death penalty
- c) allow the child to go home after advice or admonition
- d) commit the case to the Sessions Court.

**11. On finding the involvement of the child in an offence, the Juvenile Justice Board may:**

- a) treat the child as child in need of care and protection and direct his production before the Child Welfare Committee
- b) direct the child to be released on probation of good conduct
- c) direct the child to be sent to special home
- d) order the child to perform community service
- e) all the above

**12. A child who was found to have committed the offence of robbery by the Juvenile Justice Board can apply for a government job.**

- a) True
- b) False

**13. On production of a child aged 17 years who is alleged to have committed rape, the Board is bound to send the child before the Children's Court immediately.**

- a) True
- b) False

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**6. A child who attains majority during the pendency of the proceedings, if found to have committed an offence, can be sent to:**

- a) Observation Home
- b) Special Home/ Place of Safety
- c) Jail
- d) None of the above

**Ans. b).** The children in conflict with law are not to be kept in jail or lock-up and the Act provides for setting up of **observation homes, places of safety** and **special homes** for children in conflict with law. 'Observation home' means a home established by a State Government or by a voluntary organization and certified by that State Government under Section 47 of the Act of 2015 as an observation home for the child in conflict with law (Section 2(40) of the Act of 2015). They are meant for temporary reception of any child in conflict with law during the pendency of any inquiry regarding them under the Act. Provision is also made for the classification of the children according to the age group.

'Special home' means an institution established by a State Government or by a voluntary organization and certified by that Government under Section 48 of the Act of 2015 as defined in Section 2 (56) of the Act of 2015. The special homes are meant for reception and rehabilitation of children in conflict with law. Classification and separation of children in conflict with law has to be done on the basis of age of the children and the nature of offences committed by them and their mental and physical status. The Act also makes provision for a '**place of safety**' which means any place or institution (not being a police lock-up or jail), the person in charge of which is willing temporarily to receive and take care of the child alleged or found to be in conflict with law, by an order of the Board or the Children's Court, both during inquiry and ongoing rehabilitation after having been found guilty (Section 2(46) of the Act of 2015).

**7. A person who on the date of commission of offence of murder was less than 18 years but on the date of his arrest/ apprehension is more than 18 years would be produced before:**

- a) Juvenile Justice Board
- b) Child Welfare Committee
- c) Court of Judicial Magistrate/ Metropolitan Magistrate
- d) Sessions Court

**Ans. a).** A 'juvenile' or 'child' means a person who has not completed the eighteenth year of age [Section 2(k) of the Act of 2000 and as per Section 2 (35) of the Act of 2015, 'juvenile' means a child below the age of eighteen years]. A 'juvenile in conflict with law' is a juvenile who is *alleged to have committed an offence* and *has not completed the eighteenth year of age as on the date of commission of such offence* [Section 2(l) of the Act of 2000 though the said definition has been done away by the Act of 2015]. Section 2 (13) of the Act of 2015 defines a 'child in conflict with law' as a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence.

The material date for determination of juvenility even under the Act of 2015 remains the date of commission of offence. A person may be apprehended when he is more than 18 years old but if on the date of the offence he was less than 18 years old he would be treated as a juvenile/ child (**Hari Ram v. State of Rajasthan** (2009) 13 SCC 211; **Dharambir v. State** (2010) 5 SCC 344; **Daya Nand v. State of Haryana** (2011) 2 SCC 224; **Subodh Nath v. State of Tripura** (2013) 4 SCC 122). This is made clear by Section 6 of the Act of 2015 which lays down that 'any person, who has completed eighteen years of age, and is apprehended for committing an offence, when he was below

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the age of eighteen years, then, such person shall be treated as a child during the process of inquiry. In case of a continuing offence, the relevant date would be the last date of the offence (**Vikas Chaudhary v. State of NCT of Delhi** (2010) 8 SCC 508 where a child was kidnapped and murdered and ransom was demanded, it was held that the last date of demand would be relevant for determining the juvenility of the accused). Further it has been held that date of birth is to be excluded for determining juvenility (**Eerati Laxman v. State of UP** (2009) 3 SCC 337).

**8. In an offence other than a heinous offence which is alleged against a child, an FIR is to be registered:**

- a) in every case
- b) only where an adult accused is involved
- c) against the adult accused but the child is to be let off
- d) in none of the cases

**Ans. b).** No FIR is to be registered except where a heinous offence is alleged to have been committed by the child or when such offence is alleged to have been committed jointly with adults or if it was not in the knowledge of the IO that the person involved is a child and the said information regarding commission of an offence is to be recorded in the general diary only [Rule 8(1) of the Model Rules of 2016 and Rule 11 (1) of the Model Rules of 2007]. This information along with the Social Background Report is to be forwarded to the Juvenile Justice Board before the first hearing.

**9. In case of a petty or serious offence, the final report (charge sheet/ challan) against a child is to be filed before the Juvenile Justice Board within:**

- a) two months of the date of information to the police
- b) six months of the date of commission of offence
- c) as per the limitation prescribed under Cr.P.C.
- d) any time.

**Ans. a).** In **Sheela Barse v. Union of India** AIR 1986 SC 1773 a direction was issued by the Supreme Court that investigation in all cases related to juveniles, where the punishment prescribed for adults is less than seven years, should be completed within three months and the final report forwarded to the Board. The said direction was to be followed strictly and where the final report in such cases was not filed within the period of 3 months the case was to be treated as closed. Under Rule 10(6) of the Model Rules of 2016, in cases of petty or serious offences, the final report has to be filed before the Juvenile Justice Board at the earliest and in any case not beyond the period of two months from the date of information to the police, except in those cases, where it was not reasonably known that the person involved in the offence was a child, in which case extension of time may be granted by the Juvenile Justice Board for filing the final report.

**10. When a child of 15 years is found to have committed an offence of murder, the Juvenile Justice Board may impose:**

- a) life imprisonment
- b) death penalty
- c) allow the child to go home after advice or admonition
- d) commit the matter to the Sessions Court.

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**Ans. c).** No child in conflict with law can be sentenced to death or imprisonment for any term which may extend to imprisonment for life or committed to prison in default of payment of fine or in default of furnishing security. Further the Juvenile Justice Board cannot commit the matter to Sessions Court as is understood in Cr.P.C. on the ground of gravity of the offence but in case of heinous offences, alleged to have been committed by a child between the age of 16 to 18 years, the Board after conducting a preliminary assessment may transfer the case to the Children's Court.

**11. On finding the involvement of the child in an offence, the Juvenile Justice Board may:**

- a) treat the child as child in need of care and protection and direct his production before the Child Welfare Committee
- b) direct the child to be released on probation of good conduct
- c) direct the child to be sent to special home
- d) order the child to perform community service
- e) all the above.

**Ans. e).** After the conclusion of inquiry, if the Board is satisfied that the child is involved in the alleged offence, it may pass one of the dispositional orders enumerated in Section 18 of the Juvenile Justice Act of 2015.

**12. A child who was found to have committed the offence of robbery by the Juvenile Justice Board can apply for a government job.**

- a) True
- b) False

**Ans. a).** A child who has committed an offence and has been dealt with under the provisions of the Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law (Section 24(1) of the Act of 2015 and Section 19(1) of the Act of 2000). However if the child has completed the age of sixteen years and is found to be in conflict with law by the Children's Court under Section 19(1)(i), the said provisions would not apply. The Board is also to make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules [under Rule 14 of the Model Rules of 2016, the records of conviction in respect of a child in conflict with law shall be kept in safe custody till the expiry of the period of appeal or for a period of seven years, and no longer, and thereafter be destroyed]. However, in case of a heinous offence, where the child is found to be in conflict with law under Section 19(1)(i) of the Act of 2015, the relevant records of conviction of such child shall be retained by the Children's Court. Thus, if a child, except as provided in Section 24 of the Act of 2015 is found to be involved in an offence that would not be a bar to his seeking a government job. Section 74 of the Act of 2015 further provides that the police shall not disclose any record of the child for the purpose of character certificate or otherwise in cases where the case has been closed or disposed of and violation of the same would amount to an offence.

**13. On production of a child aged 17 years who is alleged to have committed rape, the Juvenile Justice Board is bound to send the child before the Children's Court immediately.**

- a) True
- b) False

**Ans. b).** The Juvenile Justice Board has to first conduct a preliminary assessment and only if it comes to a finding that the child be treated as an adult that the case would be sent to the Children's Court.

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**SHORT NOTE ON**  
**THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015**  
**WITH REFERENCE TO JUVENILES IN CONFLICT WITH LAW: SUBSTANTIVE**  
**PROVISIONS AND CASE LAW**

— Geetanjali Goel\*

**A Background**

A.1 The Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the Act of 2015) has been brought into force with effect from 15.1.2016 and it replaces the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the Act of 2000). Just like the earlier Act, this Act provides a separate adjudicating and rehabilitating machinery, distinct from that for adults, for handling matters concerning children (except in some cases). It stresses the need for child-friendly legal procedures and seeks to lay them down. It is the *only* legislation in the world which contains provisions both for children in conflict with law (the Act of 2015 uses the term child in conflict with law instead of ‘juvenile’ used earlier) and for children in need of care and protection. The Act manifests the recognition the world over that children need to be treated differently as their mental faculties are still at the developing stage and they may not be in a position to take mature decisions. It is because of this immaturity that they are not supposed to be treated as adult offenders (judgment of High Court of Delhi in *Court on its Own Motion v. Department of Women and Child Development & Ors. WP (C) No.8889 of 2011 dated 11.5.2012*; *Salil Bali v. Union of India (2013) 7 SCC 705*). *The Act is not only a beneficent legislation but also a remedial one (Pratap Singh v. State of Jharkhand (2005) 3 SCC551)*. The contention in respect of the Act of 2000 that it be read down so as to exclude juveniles from the operation of the Act taking into consideration the mental and intellectual maturity of the offender and the gravity of the offence was rejected having regard to the intention of the legislature in *Subramanian Swamy v. Raju (2014) 8 SCC 390* (however, in the present Act, certain provisions have been incorporated in that respect).

A.2 In the Indian context, clause (3) of Article 15, Article 21, Article 21A, clauses (1) and (2) of Article 22, Articles 23, 24, clauses (e) and (f) of Article 39, Article 39A, Articles 45, 47 and 51A (k) of the Constitution of India impose on the State the primary responsibility of ensuring that all the needs of the children are met and their basic human rights are fully protected. They also enable the State to make special provision for children. Further India is a signatory to various international conventions and covenants such as the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20.11.1989 and ratified by India on 11.12.1992 which lays down the standards to be adhered to by all the State parties in securing the best interests of the child and it emphasizes social reintegration of juveniles and care and protection of vulnerable children; United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (popularly known as the Beijing Rules or Beijing Declaration), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and SAARC Convention on Regional Arrangements for Promotion of Child Welfare adopted in 2002 which recognizes the family as the best place for the well-being of children and lays down the primary objective of promoting the child’s reintegration in the family and society.

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<sup>1</sup> The Preamble of the Act of 2015 reads:

“An Act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, herein under and for matters connected therewith or incidental thereto.”

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A.3 The Act of 2000 replaced the Act of 1986 and it was extensively amended in 2006 and now it has been replaced by the Act of 2015. The Act of 2015<sup>1</sup> seeks to cater to the basic needs of the children alleged and found to be in conflict with law and children in need of care and protection through proper care, protection, development, treatment, social re-integration by adopting a child friendly approach in the adjudication and disposal of matters in the best interest of children and for their ultimate rehabilitation.

A.4 Subsequent to the amendment of the Act in 2006, the Central Government framed the Juvenile Justice (Care and Protection of Children) Rules, 2007 which are also popularly known as the 'Model Rules'. Some of the States had adopted the Model Rules while some other States had framed their own rules with certain modifications. At the time the Module was prepared, the process of drafting the rules was still underway and the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 (hereinafter referred to as the Model Rules of 2016) have now been notified with effect from 21.9.2016. The Act and the Rules have to be read together. Though the provisions of Cr.P.C are applicable, the Act together with the Rules, more or less, constitute a complete Code for dealing with cases of children in conflict with law.

A.5 The new Act brings about significant changes in the law relating to children in conflict with law. While in the present note the provisions of the Act of 2015 have been referred to, the relevant provisions of the Act of 2000 have also been mentioned and the changes have also been discussed. The Rules referred to are the Model Rules of 2016 framed under the Act of 2015 though the Rules of 2007 have also been referred to. Moreover, the case law as has developed over the years would still hold good subject to the new provisions that have been incorporated in the Act of 2015.

### **Fundamental Principles**

A.6 What is most significant in the Act of 2015 is that it incorporates certain principles (earlier found in the Model Rules of 2007) which shall, *inter alia* be fundamental to the application, interpretation and implementation of the Act. These Basic or Fundamental Principles have to be kept in mind by all the stakeholders who come in contact with children in conflict with law or children in need of care and protection be they the Juvenile Justice Boards (Board) or Child Welfare Committees (CWC) or police persons or lawyers or voluntary organizations or other functionaries under the Act. The lawyers, police personnel or even the Boards have to, *inter alia*, keep in mind the fundamental principles incorporated in Section 3 of the Act of 2015 which are:

1. The *best interest of the child* which means that all decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and will help the child to develop his/her full potential<sup>2</sup>.
2. Principle of repatriation and restoration which seeks to ensure rehabilitation and reintegration of the child in the society. Every child has the right to be re-united with his family and restored back to the same socio-economic and cultural status that such child enjoyed before coming within the purview of the Act unless such restoration and repatriation is not in his best interest. Coupled with this is the principle of *institutionalization as a measure of last resort* i.e. a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.
3. Equally important is the principle of presumption of innocence i.e. a child is presumed to be innocent of any mala fide or criminal intent upto the age of eighteen years. This also

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<sup>2</sup> 'Best interest of child' under section 2 (9) of Act of 2015 has been defined to mean the basis for any decision taken regarding the child, to ensure fulfilment of his basic rights and needs, identity, social well-being and physical, emotional and intellectual development.

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incorporates the right of the children to legal representation and legal aid has to be provided to them. Further it includes the principle of *participation* i.e. every child shall have a right to be heard and to participate in all the processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to his/her age and maturity. The Act of 2015 also incorporates the principle of *natural justice* i.e. basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review, by all persons or bodies, acting in a judicial capacity under the Act.

4. Treatment of a child consistent with his sense of dignity and worth which is a fundamental principle of juvenile justice and has to be protected throughout the entire process of dealing with the child coupled with the right to privacy and confidentiality.

These principles have to be adhered to by everyone dealing with children in conflict with law at every stage irrespective of the gravity of the offence or other circumstances.

### **Statistics relating to juvenile crime**

A.7 Contrary to the popular belief and projection by the media, the percentage of crimes committed by the juveniles/ children to the total IPC crimes committed in the country remains extremely low. Over the years the percentage of crimes committed by juveniles/ children has not varied much though the actual number of crimes by juveniles/ children has gone up. As per the report of the National Crime Records Bureau for the year 2013, 'the share of IPC crimes committed by juveniles/ children to total IPC crimes reported in the country during 2003-2005 remained static at 1.0% which marginally increased to 1.1% in 2006 and remained static in 2007. This share increased marginally to 1.2% in 2008 thereafter decreased to 1.1% in 2009. This share further decreased to 1.0% in 2010 and thereafter marginally increased to 1.1% in 2011 and 1.2% in 2012 and remained static at 1.2% in 2013'. However, the juveniles/ children in conflict with law (IPC crimes) in 2013 have increased by 13.6% over 2012 as 27,936 IPC crimes by juveniles/ children were registered during 2012 which increased to 31,725 cases in 2013.

### **B. Terminology**

Flowing from the principles which are enshrined in the Rules and the basic objective of having a separate legislation dealing with children in conflict with law, more particularly the principle of non-stigmatizing semantics, adversarial and accusatory words, such as, arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody or jail are not used. Instead words such as apprehension, person alleged to be involved or found to be involved (instead of accused or convict), final report or police investigation report (rather than charge sheet), order for production of child/ juvenile or order for apprehension of child/ juvenile (instead of bailable warrants or non-bailable warrants), found involved (rather than convicted), observation home etc. are used. These should be scrupulously followed in all the processes.

Even process under Section 82 Cr.P.C. should not be resorted to against the juveniles/ children as it is contrary to the right of privacy of the juveniles/ children since it requires public reading in a conspicuous place in town or village and affixation of the process in a conspicuous place in the town or village or house of the children. Instead resort can be had to Section 26 of the Act of 2015 (Section 22 of the Act of 2000) which deals with escaped children and the Child Welfare Police Officers/ SHOs of police stations can be directed to produce the children as and when found. Rule 10(3) of the Rules of 2016 specifically provides that when the child alleged to be in conflict with law, after being admitted to bail, fails to appear before the Juvenile Justice Board, on the date fixed for hearing and no sufficient ground is shown for the exemption of the child, the Juvenile Justice Board shall issue to the Child Welfare Police Officer and the Person-in-charge of the Police Station directions for the production of

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the child. Rule 10(4) further clarifies that if the Child Welfare Police Officer fails to produce the child before the Juvenile Justice Board even thereafter, the Board shall instead of issuing process under Section 82 of the Cr.P.C. pass orders as appropriate under Section 26 of the Act of 2015.

### **C. Adjudicating Machinery under the Act for juveniles/ children in conflict with law**

C.1 Under the Act, the cases of children in conflict with law are to be adjudicated by *Juvenile Justice Boards* (hereinafter referred to as the Board) constituted under Section 4 of the Act of 2015 and such Boards are to be set up in every district (the setting up of Boards is being monitored by Supreme Court in *Sampurna Behura; also Bachpan Bachao Andolan v. Union of India (2011) 5 SCC 1*). A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, with at least three years' experience and two social workers of whom at least one shall be a woman, forming a Bench. A child in conflict with law may be produced before an individual member of the Board, when the Board is not sitting, though at the time of final disposal of the case or in making an order under sub-section (3) of Section 18, there shall be at least two members including the Principal Magistrate present. The proceedings of the Board are to be held in the premises of an Observation Home or, at a place in proximity to the observation home or at a suitable premise in any Child Care institution meant for children in conflict with law run under the Act but not within any court or jail premises. The procedures have to be child-friendly and the venue should not be intimidating to the child and should not resemble regular courts. The Board is also to ensure that no person unconnected with the case remains present when the case is in progress and that only those persons are present in whose presence the child feels comfortable.

C.2 A Board shall have the power to deal exclusively with proceedings under the Act relating to children in conflict with law, notwithstanding anything contained in any other law for the time being in force, and the powers conferred on the Board may also be exercised by the High Court and the Children's Court, when the proceedings come under Section 19 or in appeal, revision or otherwise (Section 8 of the Act of 2015). Thus all offences whether under IPC or any local or special law allegedly committed by a juvenile/ child have to be first brought before the Board and except as specified can be inquired into by the Board exclusively [*Raj Singh v. State of Haryana (2000) 6 SCC 759; Union of India v. Ex-GNR Ajeet Singh (2013) 4 SCC 186; Tara Chand v. State of Rajasthan 2007 Cri.L.J. 3424 (Raj)*]; however as regards TADA, 1987, it was held that the JJ Act does not have an overriding effect over TADA which was not in existence on the date of commencement of provisions of Section 1(4) of JJ Act in *Yakub Abdul Razak Memon v. State of Maharashtra (2013) 13 SCC 1*). Question of applicability of the Act to children above 16 years of age committing offences punishable with death penalty in view of Section 27 Cr.P.C. has been settled by Supreme Court in *Rohtas Singh v. State AIR 1979 SC 1839 and Raghbir Singh v. State AIR 1981 SC 2037*]. However, under the Act of 2015 certain specific provisions have been incorporated in that regard.

C.3 The functions and responsibilities of the Board include ensuring informed participation of the child and the parent or guardian in every step of the process and that the rights of the child are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation, ensuring availability of legal aid for the child through the legal services institutions, directing preparation of social investigation report, adjudicating and disposing of cases of children in conflict with law, transferring to the Committee, matters concerning the child alleged to be in conflict with law, stated to be in need of care and protection, disposing of the matter and passing a final order that includes an individual care plan for the child's rehabilitation, conducting inquiry for declaring fit persons or fit facilities regarding care of children in conflict with law, conducting inspection of the residential facilities for children in conflict with law, directing the police to register FIR for offences committed against any child in conflict

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with law and a child in need of care and protection on a complaint made in that regard/ written complaint by a Committee and conducting regular inspection of jails meant for adults to check if any child is lodged in such jails and taking immediate measures for transfer of such a child to the observation home. Under the Rules of 2016, the Board shall also wherever required, pass appropriate orders for the re-admission or continuation of the child in the school where the child has been disallowed from continuing his education in a school on account of the pendency of the inquiry or the child having stayed in a Child Care Institution for any length of time and maintain a suggestion box or grievance redressal box in the premises of the Board at a prominent place to encourage inputs from children and adults alike. The Board is also to ensure that the Legal cum Probation Officer in the District Child Protection Unit and the State or District Legal Services Authority extends free legal services to a child, and deploy, if necessary, the services of student volunteers or non-governmental organization volunteers for para legal and other tasks such as contacting the parents of the child in conflict with law and collecting relevant social and rehabilitative information about the child.

C.4 The children in conflict with law are not to be kept in jail or lock-up (proviso to Section 10 (1) of the Act of 2015) and the Act provides for setting up of **observation homes, special homes and place of safety** for children in conflict with law. ‘Observation home’ means a home established by a State Government or by a voluntary organization and certified by that State Government under Section 47 of the Act of 2015 as an observation home for the child in conflict with law (Section 2(40) of the Act of 2015). They are meant for temporary reception of any child in conflict with law during the pendency of any inquiry regarding them under the Act. Provision is also made for the classification of the children according to the age group.

C.5 ‘Special home’ means an institution established by a State Government or by a voluntary organization and certified by that Government under Section 48 of the Act of 2015 as defined in Section 2 (56) of the Act of 2015. The special homes are meant for reception and rehabilitation of children in conflict with law. Classification and separation of children in conflict with law has to be done on the basis of age of the children and the nature of offences committed by them and their mental and physical status. The Act also makes provision for a ‘**place of safety**’ which means any place or institution (not being a police lock-up or jail), the person in charge of which is willing temporarily to receive and take care of the child alleged or found to be in conflict with law, by an order of the Board or the Children’s Court, both during inquiry and ongoing rehabilitation after having been found guilty (Section 2(46) of the Act of 2015<sup>3</sup>).

C.6 The Act of 2015 classifies the offences into three types:

-‘petty offences’ which include the offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years (Section 2(45) of the Act of 2015).

-‘serious offences’ which include the offences for which the punishment under the Indian Penal Code or any other law for the time being in force, is imprisonment between three to seven years (Section 2(54) of the Act of 2015).

-‘heinous offences’ which include the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more (Section 2(33) of the Act of 2015). This would be open to interpretation by the JJBs and Courts as the

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<sup>3</sup> Under Section 49 of the Act of 2015, the State Government shall set up at least one place of safety in a State registered under section 41, so as to place a person *above the age of eighteen years or child in conflict with law, who is between the age of sixteen to eighteen years and is accused of or convicted for committing a heinous offence.*

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words used are ‘*minimum punishment* under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years’.

The nature of the proceedings before the Board and the orders passed in respect of children, to some extent depend on the category in which the offences fall.

#### **D. Who are children in conflict with law?**

D.1 A ‘juvenile’ or ‘child’ means a person who has not completed the eighteenth year of age [Section 2(k) of the Act of 2000 and as per Section 2 (35) of the Act of 2015, ‘juvenile’ means a child below the age of eighteen years]. A ‘juvenile in conflict with law’ is a juvenile who is *alleged to have committed an offence* and *has not completed the eighteenth year of age as on the date of commission of such offence* [Section 2(l) of the Act of 2000 though the said definition has been done away by the Act of 2015]. Section 2 (13) of the Act of 2015 defines a ‘child in conflict with law’ as a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence.

D.2 The material date for determination of juvenility even under the Act of 2015 remains the date of commission of offence. A person may be apprehended when he is more than 18 years old but if on the date of the offence he was less than 18 years old he would be treated as a juvenile/ child<sup>4</sup> (*Hari Ram v. State of Rajasthan (2009) 13 SCC 211; Dharambir v. State (2010) 5 SCC 344; Daya Nand v. State of Haryana (2011) 2 SCC 224; Subodh Nath v. State of Tripura (2013) 4 SCC 122*). This is made clear by Section 6 of the Act of 2015 which lays down that ‘any person, who has completed eighteen years of age, and is apprehended for committing an offence, when he was below the age of eighteen years, then, such person shall be treated as a child during the process of inquiry.

D.3 In case of a continuing offence, the relevant date would be the last date of the offence (*Vikas Chaudhary v. State of NCT of Delhi (2010) 8 SCC 508* where a child was kidnapped and murdered and ransom was demanded, it was held that the last date of demand would be relevant for determining the juvenility of the accused). Further it has been held that date of birth is to be excluded for determining juvenility (*Eerati Laxman v. State of UP (2009) 3 SCC 337*).

D.4 A reference to *Sections 82 and 83 of the IPC* is necessary. Under Section 82 IPC nothing is an offence which is done by a child under 7 years of age and it confers absolute immunity in case of such a child. Under Section 83 IPC, in case of children in the age group of 7 to 12 years nothing done by them would be an offence if they had not attained sufficient maturity of understanding to judge the nature and consequences of their conduct on that occasion. Thus the immunity is a qualified one and it is for the Board to decide how the case of a child in the said age group is to be dealt with. A child under 12 years is presumed not to have reached the age of discretion but the presumption can be rebutted by strong and cogent evidence of the child’s understanding and judgment (*Hiralal v. State of Bihar AIR 1977 SC 2236*). However, above the age of 12 years there is no immunity from criminal liability and the lack of maturity of understanding the nature and consequences of his conduct would not take away the criminal liability though upto the age of 18 years, the child allegedly committing an offence would be governed by the provisions of the Act. It is often argued that in view of Section 83 of the IPC, a person above the age of 12 years, would be liable for any offence committed. However, the Act is a special provision and enacted after the IPC and as such the provisions of the Act would prevail, in case of any inconsistency between the IPC and the Act.

D.5 When during the course of inquiry under the Act, the child completes the age of eighteen years, then, the inquiry may be continued by the Board and orders may be passed in respect of such person

<sup>4</sup> Such a person, if not released on bail by the Board, shall be placed in a place of safety during the process of inquiry and he shall be treated as per the procedure specified under the provisions of the Act.

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as if such person had continued to be a child (Section 5 of the Act of 2015. Reference may also be made to Rule 90 of the Model Rules of 2016).

### **E. Age Enquiry**

E.1 This is the most important issue as the question whether the person alleged to be involved in the offence would be brought before the Board or a regular criminal court rests on age determination. Immediately on apprehension the police officers are required to make enquiries about the age of the person apprehended and the steps taken in this regard have to be mentioned in the final report (The Supreme Court in *Gopi Nath Ghosh v. State of West Bengal*, AIR 1984 SC 237 observed: “*We are of the opinion that whenever a case is brought before the magistrate and the accused appears to be aged 21 years or below before proceeding with the trial or undertaking an inquiry, an inquiry must be made about the age of the accused on the date of the occurrence... this procedure if properly followed, would avoid a journey up to the apex court and return journey to the grass court.*”) Thus in every case where a person appears to be upto 21 years of age or states his age to be so, an inquiry has to be made about the age of the person apprehended on the date of the offence (reiterated by High Court of Delhi in *Court on its Own Motion v. Dept. Of Women and Child Development & Ors.WP (C) No.8889 of 2011 decided on 11.5.2012* and in *Jitender Singh v. State of UP (2013) 11 SCC 193*).

E.2 *Section 9 of the Act of 2015 (Sections 7 and 7A of the Act of 2000)*: Section 9 (1) of the Act of 2015 applies only to the Magistrate’s court and under the same, immediately on forming an opinion that the person brought before the Magistrate is a child, the Magistrate is to record the opinion and forward the child immediately to the Board. However under Section 9(2) every court before which the question of juvenility is raised or arises, whatever be the stage and even after final disposal of the case, is to make an inquiry and take such evidence as may be necessary (but not on affidavit) so as to determine the age of the person raising the claim of juvenility and if the person is found to be a juvenile/child on the date of commission of the offence he shall be forwarded to the Board. Under Section 9(4) it has been clarified that in case a person under the said section is required to be kept in protective custody while the person’s claim of being a child is being inquired into, such person may be placed, in the intervening period in a place of safety.

E.3 **Prima facie opinion:** Under Section 94 of the Act of 2015 (formerly the provision regarding manner of age inquiry was contained in Rule 12 of the Model Rules of 2007 which has been modified now) when a person is brought before the Board other than for the purpose of giving evidence and it is obvious to the Board, *based on the appearance of the person* that the said person is a child, the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under Section 14 of the Act of 2015, without waiting for further confirmation of the age. However, if the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Board shall undertake the process of age determination.

E.4 **Age Determination:** Section 94 of the Act of 2015 lays down a definite ordering of documents to be considered for determining the age namely:

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned Examination Board, if available; and in the absence thereof;

(a) the birth certificate given by a corporation or a municipal authority or a panchayat;

(b) and only in absence of (i) and (ii) the age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Board (however, wherever possible, examination by a Medical Board should be got done).

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It is significant that the first document is to be considered to the exclusion of the other documents and if document at (i) is not available, then the document at (ii) would be considered and if both (i) and (ii) are not available, then medical opinion is to be sought. Even the judgments of the Supreme Court give primacy to documentary evidence over medical test and it is only where the documents are proved to be forged or unreliable or are doubtful that medical examination is to be ordered (*see Om Prakash v. State of Rajasthan (2012) 5 SCC 201*). Generally, the age on the lower side of the range is to be considered. Rule 12 of the Model Rules of 2007 provided that where exact assessment of the age could not be done, the Court, *for reasons to be recorded*, could, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year [*Bablu Passi v. State of Jharkhand (2008) 13 SCC 133; Ram Suresh Singh v. Prabhat Singh (2009) 6 SCC 681; Shah Nawaz v. State of UP (2011) 13 SCC 751; Ashwani Kumar Saxena v. State of MP (2012) 9 SCC 750; Jodhbir Singh v. State of Punjab AIR 2013 SC 1; Ranjeet Goswami v. State of Jharkhand (2014) 1 SCC 588; Darga Ram v. State of Rajasthan (2015) 2 SCC 775; State of Bihar v. Chhotu Pandey 2015 (1) SCALE 59*]. However, the same has been done away in the new Act though following the judgments which are there on the subject some benefit may be given. A hyper-technical approach is not to be taken while determining the age (*Arnit Das v State of Bihar*). The matter should be considered *prima facie* on the touchstone of preponderance of probability (*Abuzar Hossain @ Gulam Hossain v. State of West Bengal (2012) 10 SCC 489*).

Same procedure has to be followed for *determining the age of the victims* (*Jarnail Singh v. State of Haryana (2013) 7 SCC 263; Mahadeo v. State of Maharashtra (2013) 14 SCC 637*). It has also been laid down that the age recorded by the Board to be the age of a person so brought before it shall, for the purpose of the Act, be deemed to be the true age of that person.

**E.5 Scope of Age Inquiry:** This has been a question of difficulty with some courts ordering detailed inquiry including examining witnesses (*Khem Chand v. State of Rajasthan MANU/RH/0056/2008; Subhash v. State of UP MANU/UP/0085/2008; judgment of High Court of Delhi in Court on its Own Motion v. Department of Women and Child Development & Ors. WP (C) No.8889 of 2011 dated 11.5.2012*) while others have relied upon documentary proof and passed orders. It has been held by the Supreme Court in *Ashwani Kumar Saxena v. State of M.P. (2012) 9 SCC 750* that S.7A (of the Act of 2000) obliges the court only to make an inquiry, not an investigation or a trial, an inquiry not under the Code of Criminal Procedure, but under the JJ Act. Further it was observed that the Court or the Board can accept as evidence something more than an affidavit i.e. the Court or the Board can accept documents, certificates etc. as evidence need not be oral evidence; and that age determination inquiry contemplated under the JJ Act and Rules has nothing to do with an inquiry under other legislations, like entry in service. Even otherwise the provisions have been made more liberal under the Act of 2015 which provides that the Board can proceed with the inquiry under Section 14 of the Act of 2015, if based on the physical appearance of the child, it is obvious to the Board that the person brought before it is a child.

**E.6** The court is bound to hold an age determination inquiry in all cases in which an accused claims to be a child and the claim cannot be rejected on the ground of being an afterthought. Even if application for withdrawing the application under Section 9 of the Act of 2015 (Section 7A of Act of 2000) is filed, still the court should decide the question (*Bhola Bhagat v. State of Bihar (1997) 8 SCC 720*) and even if the documents are found to be fabricated still the plea of juvenility has to be considered and decided.

**E.7 Claim of juvenility raised after conviction:** Claim of juvenility may be raised at any stage even after final disposal of the case and delay in raising the claim of juvenility cannot be a ground for rejection of such claim. If the claim is raised after conviction, the claimant must produce some material

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which may *prima facie* satisfy the court that an inquiry into the claim of juvenility is necessary, initial burden has to be discharged by the person who claims juvenility. If *prima facie* satisfied, the court can remand the matter to the trial court to decide the claim of juvenility (*Union of India v. Ex-GNR Ajeet Singh* (2013) 4 SCC 186; *Abuzar Hossain @ Gulam Hossain v. State of West Bengal* (2012) 10 SCC 489; *Abdul Razzak v. State of UP* decided on 16<sup>th</sup> March, 2015; *Anil Agarwala v. State of W.B.* (2012) 9 SCC 768; *Babla @ Dinesh v. State of Uttarakhand* (2012) 8 SCC 800; *Dharambir v. State* (2010) 5 SCC 344).

E.8 When a person is brought before a Board under any of the provisions of the Act who appears to be a child, the Board shall make due inquiry as to the age of that person.

#### **F. Pre-production processes**

Section 10 of the Act of 2015 provides that as soon as a child alleged to be in conflict with law is apprehended, he shall be placed in the custody of a Special Juvenile Police Unit or the designated child welfare police officer (meaning thereby that there should be designated police officers such as Child Welfare Police Officers in each Police Station in whose custody the child can be placed on apprehension and who should be imparted special training to deal with cases of children in conflict with law). As per Rule 8(5) of the Model Rules of 2016 (Rule 11 of the Model Rules of 2007), the Child Welfare Police Officers are required to record the social background of the child and circumstances of apprehending in every case of alleged involvement of the child in an offence i.e. to prepare a Social Background Report (defined under Rule 2(xvi) of the Model Rules of 2016 as a report of a child in conflict with law containing the background of the child prepared by the Child Welfare Police Officer) which is to be forwarded to the Juvenile Justice Board forthwith and is to be considered by the Juvenile Justice Board when the child is produced before the Board. It is pertinent that:

- i. The parents or the guardian of the child are to be informed immediately about the apprehension of the child (Section 13 (1) (i) of the Act of 2015) and about the address of the Board and where the child would be produced and the date and time when the parents or guardian need to be present before the Board. The probation officer is to be informed immediately as well under Rule 8(2)(ii) of the Model Rules of 2016 [Rule 11(5) of the Rules of 2007].
- ii. The child is in no case to be kept in lock up or jail under proviso to Section 10 (1) of the Act of 2015 or with adult accused [proviso to rule 10 (1) and rule 11 (3) of the Rules of 2007. Under Rule 8(3)(i) of the Model Rules of 2016, the police officer apprehending a child alleged to be in conflict with law is not to send a child to a police lock-up and not to delay the child being transferred to the Child Welfare Police Officer from the nearest police station] and as far as possible he should not be brought to the police station (courts have even awarded monetary compensation where the juvenile/ child has been kept in jail or police lock-up *Master Salim Ikramuddin Ansari v. Officer-in-charge*, 2005 Cri.L.J. 799 and *Master Rajeev Shankarlal v. Officer-in-charge*, 2003 Cri.L.J. 4522).
- iii. Rule 8(3)(i) of the Model Rules of 2016 provides that the police officer may send the person apprehended to an observation home only for such period till he is produced before the Board i.e. within twenty-four hours of his being apprehended and appropriate orders are obtained from the Juvenile Justice Board. (Also see Section 10 of the Act of 2015). This eventuality may arise where the child alleged to be in conflict with law cannot be produced before the Board or even a single member of the Board due to the child being apprehended during odd hours or distance. [Rule 9(6) of the Model Rules of 2016 and the procedure in this regard is laid down in Rule 69D of the Model Rules of 2016] Period of 24 hours is the outer limit and in fact the child should be produced before the Board “without any loss of time” and it was so held in *Court on its own motion v. Govt. of NCT of Delhi WP (C) 8801/2008 order dated 3.3.2009*.

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- iv. The child is not be hand-cuffed, chained or otherwise fettered and no coercion or force is to be used on the child [Rule 8(3)(ii) of the Model Rules of 2016].
  - v. The child is to be informed promptly of the charges levelled against him through his parent or guardian and be provided all appropriate assistance. If an FIR is registered against the child, copy of the same is to be made available to the child or the copy of the police report is to be given to the parent or the guardian [Rule 8(3)(iii) of the Model Rules of 2016].
  - vi. The child is to be provided appropriate medical assistance, assistance of interpreter or a special educator, or any other assistance which the child may require [Rule 8(3)(iv) of the Model Rules of 2016].
  - vii. The child should not be compelled to confess his guilt [Rule 8(3)(v) of the Model Rules of 2016]. *In Court on its own motion v. Govt. of NCT of Delhi WP (C) 8801/2008 order dated 3.3.2009* the issue of juveniles being made to sign statements made to police officers came up and the Delhi Police thereafter issued a circular dated 17.12.2008 that the said practice should be stopped forthwith]. The child cannot be asked to sign any statement [Rule 8(3)(vi) of the Model Rules of 2016]. The child is to be interviewed only at the Special Juvenile Police Unit or at a child-friendly premises or at a child-friendly corner in the police station, which does not give the feel of a police station or of being under custodial interrogation and the parent or guardian, may be present during the interview of the child by the police [Rule 8(3)(v) of the Model Rules of 2016].
  - viii. The police officer has to also inform the District Legal Services Authority for providing free legal aid to the child [Rule 8(3)(vii) of the Model Rules of 2016].
  - ix. Notwithstanding anything in the Code of Criminal Procedure, 1973 or any preventive detention law for the time being in force, no preventive proceeding shall be instituted against a child such as proceedings u/s 107/150, 107/151, 109, 110 Cr.P.C. (Section 22 of the Act of 2015 and Section 17 of the Act of 2000).
  - x. The guidelines laid down in *D.K. Basu v. State of West Bengal (1997) 1 SCC 416* to be adhered to by the police in all cases of arrest or detention and the amended provisions of Cr.P.C. are equally applicable, *mutatis mutandis*, to a juvenile or a child (**Jitender Singh v. State of UP (2013) 11 SCC 193**) particularly in view of *S.41-B, 50A, 54 of Cr.P.C.*
  - xi. No FIR is to be registered except where a heinous offence is alleged to have been committed by the child or when such offence is alleged to have been committed jointly with adults or if it was not in the knowledge of the IO that the person involved is a child and the said information regarding commission of an offence is to be recorded in the general diary only [Rule 8(1) of the Model Rules of 2016 and Rule 11 (1) of the Model Rules of 2007]. This information along with the Social Background Report is to be forwarded to the Juvenile Justice Board before the first hearing.
  - xii. The child is to be apprehended only in case of heinous offences under the proviso to Rule 8(1) of the Model Rules of 2016 (under the Model Rules of 2007 i.e. Rules 11 (2), (3) and (4), the power of apprehension could be exercised in cases only of alleged involvement in serious offences entailing a punishment of more than 7 years imprisonment for adults) unless the apprehension is in the best interest of the child himself, such as where the child takes drugs or his family cannot be traced or he is being used by gangs. In all other cases, the information regarding the nature of offence alleged to be committed by the child along with his Social Background Report is to be forwarded to the Juvenile Justice Board and the parents or guardian

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of the child have to be intimated as to when the child is to be produced for hearing before the Juvenile Justice Board.

- xiii. In *Sheela Barse v. Union of India AIR 1986 SC 1773* a direction was issued by the Supreme Court that investigation in all cases related to juveniles, where the punishment prescribed for adults is less than seven years, should be completed within three months and the final report forwarded to the Board. The said direction was to be followed strictly and where the final report in such cases was not filed within the period of 3 months the case was to be treated as closed. Under Rule 10(6) of the Rules of 2016, in cases of petty or serious offences, the final report has to be filed before the Juvenile Justice Board at the earliest and in any case not beyond the period of two months from the date of information to the police, except in those cases, where it was not reasonably known that the person involved in the offence was a child, in which case extension of time may be granted by the Juvenile Justice Board for filing the final report.
- xiv. Even in cases of heinous offences the final report is to be filed at the earliest as the mandate contained in the Act for speedy disposal of cases applies to all and often even after the child is granted bail the matter is kept pending so that the IO is constantly reminded to file the final report at the earliest.

## **G. Bail**

G.1 Institutionalization of a child in conflict with law has to be the last resort and the aim has to be rehabilitation of the child and his reintegration in the society. Section 12 of the Act of 2015 provides for release on bail of a person accused of a bailable or non-bailable offence, and apparently a child when he is arrested (apprehended) or detained or appears or is brought before a Board. The child has a right to bail which is one of the most important rights of the child and if bail is declined, a reasoned order has to be given by the Board. Bail of a child cannot be rejected in a routine manner.

Bail can be with or without surety or the child can be placed under the supervision of a Probation Officer or under the care of any fit institution or fit person. Grounds on which bail can be refused are expressly stated i.e. if there appear reasonable grounds for believing that the release is:

- likely to bring him into association with any known criminal (*Devesh v. The State MANU/DE/8693/2006*; *Dattatray G. Sankhe v. State of Maharashtra MANU/MH/0490/2003*; bail rejected as the juvenile, if released on bail, may again mix up with other adult co-accused who were absconding *Fawaad Nasir @ Ziya v. State MANU/DE/8845/2007*; *Jaif Ahmed Sheikh v. State of Rajasthan 2004 Cri.L.J. 3272*); or
- expose him to moral, physical or psychological danger (*Sandeep Kumar v. State 2005 Cri.L.J. 3182: 119 (2005) DLT 398*); or
- that his release would defeat the ends of justice.

The child is to be kept in the institution only if it is in his interest and not as a mark of punishment or because it is felt that he may repeat the act (*Abdul Rab v. State of Bihar (2008) 17 SCC 475*; *Jitendra Singh v. State of UP (2013) 11 SCC 193*). The phrase ‘defeat the ends of justice’ in Section 12 of the Act has to be construed harmoniously with other grounds for rejecting bail and has to mean ‘interest of the child’. Thus even here primarily the interest of the child is to be seen. The High Court of Delhi interpreted the words ‘would defeat the ends of justice’ as one of the grounds for denying bail to a juvenile in 2006 [3] JCC 1430 where referring to *Master Abhishek (Minor) v. State 2005 VIAD Delhi 18* it held: “*The facts for determining as to what amounts to defeat of the ends of justice must be construed in the context of the purpose of the Act. It was indicated in the decision that what needs to be adopted is a child friendly approach in the adjudication and*

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*disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under the enactment. What is important is that the court should keep in mind the developmental needs of juvenile and the necessity for his rehabilitation. It is only if the developmental needs of the child require that he be kept in custody or that keeping him in custody is necessary for his rehabilitation, or care or protection that his release would defeat the ends of justice and not otherwise.” (Manoj @ Kali v. The State 2006 Cri.L.J. 4759; Dev Vrat (Minor) v. Govt. of NCT of Delhi MANU/DE/8999/2006; Mohd. Adnan Aftab v. The State, NCT of Delhi MANU/DE/8096/2007)*

G.2 The offence alleged against the child or the gravity thereof or the role of the child in the same or even the interest of the victim is not the consideration. The Court/Board has to be see whether it would be in the interest of the child to keep him in protective custody (*in Master Niku Chaubey v. State 129 (2006) DLT 577* the High Court of Delhi did not entertain the plea of the State “...that the alleged act said to have been committed by the juvenile along with co-accused was one of great moral degradation and the act in itself would demonstrate the perversity of the mind of the juvenile” and held that the nature of the offence is not one of the grounds on which bail can be granted or refused to the juvenile; *Prakash v. State of Rajasthan 2006 Cri.L.J. 1373; Vijendra Kumar Mali v. State of UP 2003 Cri.L.J. 4619; Bharat @ Bharat Ram v. State MANU/RH/0078/2008*).

G.3 The Boards call for a Social Investigation Report (‘social investigation report’ has been defined in Rule 2(xvii) of the Model Rules of 2016 as the report of a child containing detailed information pertaining to the circumstances of the child, the situation of the child on economic, social, psycho-social and other relevant factors, and the recommendation thereon) from the probation officer as also report of physical and mental assessment and regarding drug use while the police file a social background report (SBR) which the Board peruses and after interaction with the child and his family members, the Board decides if he is to be released on bail or other measures are necessary (*Nand Kishore v. State (Del) MANU/DE/8814/2006; Master Niku Chaubey v. State 129 (2006) DLT 577; Sandeep Kumar v. State 2005 Cri.L.J. 3182: 119 (2005) DLT 398*). Where a child is released on bail, the probation officer or the Child Welfare Officer has to be informed by the Board (Section 13(2) of the Act of 2015).

G.4 Under the Act of 2015, if the child in conflict with law is unable to fulfil the conditions of the bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.

## **H. Post-production processes:**

H.1 **Order on First Production before the Board:** When the child is produced before the Board, it has to consider the Social Background Report (SBR) prepared by the Child Welfare Police Officer or officers, individuals, agencies producing the child and the Board may:

- dispose of the case, if the Board is satisfied on inquiry that the child brought before it has not committed any offence (Sections 14(1) and 17(1) of the Act of 2015); or
- transfer the child to the Child Welfare Committee if it appears to the Board that the child has not committed any offence and is in need of care and protection (Section 17(2) of the Act of 2015 and Rule 10(1)(ii) of the Model Rules of 2016). Under Rule 9(3) of the Model Rules of 2016, when the child produced before the Board is covered under Section 83 of the Act of 2015, including a child who has surrendered, the Board may, after due inquiry and being satisfied of the circumstances of the child, transfer the child to the Child Welfare Committee and/ or pass appropriate directions for rehabilitation, including orders for safe custody and protection of the child and transfer to a fit facility recognized for the purpose which shall have

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the capacity to provide appropriate protection and consider transferring the child out of the district or out of the State to another State for the protection and safety of the child; or

- consider the release of the child on bail; or
- release the child in the supervision or custody of fit persons or fit facility or probation officers; or
- keep the child in an observation home or place of safety pending inquiry [Rule 9(2) of the Model Rules of 2016].

The Board has also to satisfy itself that the child in conflict with law has not been subjected to any ill-treatment by the police or by any other person, including a lawyer or probation officer and take corrective steps in case of such ill-treatment [Section 14(5)(a) of the Act of 2015].

Where the child alleged to be in conflict with law has not been apprehended and the information in this regard is forwarded by the police or Special Juvenile Police Unit or Child Welfare Police Officer to the Juvenile Justice Board, it shall require the child to appear before it at the earliest so that measures for rehabilitation, where necessary, can be initiated. [Rule 9(4) of the Model Rules of 2016]

## **H.2 Nature and Scope of Inquiry before the Board:**

- a) The proceedings before the Board are to be conducted in as simple a manner as possible and the child is to be given child-friendly atmosphere during the proceedings (Section 14(5)(b) of the Act of 2015).
- b) The child has to be given the opportunity to be heard and participate in the inquiry.
- c) The Board may require any parent or guardian having the actual charge of or control of the juvenile/ child to be present at any proceeding in respect of the child. The Board may dispense with the attendance of the child and proceed with the inquiry in the absence of the child, if it is satisfied that the attendance of the child is not essential for the purpose of the inquiry.
- d) The Board conducts an inquiry and not a trial (Section 14 of the Act of 2015) and is to ensure that the inquiry is not conducted in the spirit of strict adversarial proceedings.
- e) The cases of 'petty offences' are to be disposed of by the Board through summary proceedings as per the procedure laid down in Cr.P.C.
- f) The procedure of summons trial is to be followed during inquiry of serious offences and inquiry of heinous offences where the child was below the age of sixteen years on the date of commission of the offence (Section 14 (5) (e) and (f) of the Act of 2015), or where in case of children in the age group of 16 to 18 years, the Board decides to dispose of the matter itself (Section 15 (2) of the Act of 2015). Accordingly, instead of framing charges, only a notice is served upon the child.
- g) No child can be charged with or tried for any offence together with a person who is not a child (Section 23 (1) of the Act of 2015 and Section 18 of the Act of 2000).
- h) Only the material witnesses are examined. It is not necessary to record the evidence in detail as is recorded in a full-fledged trial.
- i) Inquiry has to be completed within 4 months from the date of first production of the child before the Board, and in exceptional cases within 6 months, having regard to the circumstances of the case and after recording reasons in writing for such extension.

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- j) If an inquiry by the Board for petty offences remains inconclusive even after the extended period, the proceedings shall stand terminated (Section 14 (4) of the Act of 2015). However, in case of serious or heinous offences, further extension for completion of inquiry may be granted by the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, for reasons to be recorded in writing.
  - k) The Board may use the powers of questioning conferred by Section 165 of the Indian Evidence Act [Rule 10(7) of the Model Rules of 2016 and Rule 13 (3) of the Model Rules of 2007] and shall proceed with the presumptions in favour of the child.
  - l) The right to privacy and confidentiality of a juvenile/ child is to be protected at all times and at all stages of proceedings (*Jitender Singh v. State of UP (2013) 11 SCC 193*).
  - m) The Board shall take into account the report of the police containing circumstances of apprehension and offence alleged to have been committed and the social investigation report prepared by the Probation Officer or the voluntary or non-governmental organization on the orders of the Board, along with the evidence produced by the parties for arriving at a conclusion about the child [Rule 10(9) of the Model Rules of 2016].

Where a child is not represented by a counsel it is the duty of the Board to inform the child of the availability of legal aid counsel and such legal aid counsel ought to be available in the Board to assist the children (Rule 14 of the Model Rules of 2007 and in the Rules of 2016, it is included in the functions of the Board in Rule 7). Also every child who has to file or defend a case is entitled to free legal services under Legal Services Authority Act, 1987 [Section 12 (1) (c) of the Legal Services Authority Act, 1987].

H.3 Under the Act of 2015, the Board, **in case of heinous offences** alleged to have been committed by a child, who has completed or is above the age of sixteen years, has to conduct a preliminary assessment. The said preliminary assessment is to be done with regard to:

- i) the mental and physical capacity of the child to commit such offence;
- ii) ability of the child to understand the consequences of the offence; and
- iii) the circumstances in which the child allegedly committed the offence.

The Board for conducting such an assessment, may take the assistance of experienced psychologists or psycho-social workers or other experts. It is clarified by the Explanation to Section 15(1) of the Act of 2015 that the preliminary assessment is not a trial, but is to assess the capacity of the child to commit and understand the consequences of the alleged offence. Thus no cross-examination is to be done on the reports considered by the Board. Nor can any evidence be led in this regard. However, in the first instance, the Board has to determine whether the child is of sixteen years of age or above. [Rule 10A(1) of the Model Rules of 2016]

While no specific indicators have been laid down in the Act of 2015, the Board while conducting such preliminary assessment may take into consideration the social investigation report prepared by the probation officer or a Child Welfare Officer and the report of investigation, statements of witnesses recorded by the Child Welfare Police Officer, medico-legal report, forensic report and other documents prepared during the course of investigation filed by the police before it; medical reports of the child as are available; and the mental health reports of the child. In fact Rule 10(5) of the Model Rules of 2016 enjoins the police officer, in cases of heinous offences alleged to have been committed by a child who has completed the age of sixteen years to produce the statement of witnesses recorded by him and other documents prepared during the course of investigation within a period of one month from the

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date of first production of the child before the Board, a copy of which shall also be given to the child or the parent or the guardian of the child.

While making the preliminary assessment, the child shall be presumed to be innocent unless proved otherwise [Rule 10A(3) of the Model Rules of 2016]. The Board, while conducting a preliminary assessment, may consider:

- a. whether the child also qualifies as a child in need of care and protection;
- b. whether the child has himself been a victim of any offence in the past;
- c. whether the child has had a history of abuse and exploitation;
- d. whether the unlawful conduct has been done for survival;
- e. whether the alleged offence has been committed due to situational factors such as the child being put to extreme mental trauma and cruelty to compel him to commit an offence;
- f. whether the child had committed the offence under coercion or fear of mental or physical harm to himself or to some other person;
- g. whether the alleged offence has been committed under the control of adults, or with an adult or the child has been used by a group of adults;
- h. whether the child suffers from a mental illness;
- i. whether the child is prone to taking drugs or alcohol;
- j. whether the child is under the influence of peer groups or associates with those who present risk of harm e.g. sexual offenders, drug peddlers etc or criminals;
- k. whether the child has been involved in violent incidents prior to the alleged offence;
- l. whether the child has been previously involved in any offence;
- m. whether the child has suicidal tendencies or of harming himself;
- n. whether the child has been exposed to media and internet including to pornography;
- o. personality traits and habits of the child;
- p. whether the child was aware of what he has done and his perception of the act; and
- q. whether the child has been recruited or used by any non-State, self-styled militant group or outfit declared as such by the Central Government.

The said preliminary assessment has to be disposed of by the Board within a period of three months from the date of first production of the child before the Board (Section 14(3) of the Act of 2015).

The Board may, after the preliminary assessment decide to dispose of the matter itself. However, where the Board passes an order that there is a need for trial of the child as an adult, then the Board may transfer the trial of the case to the Children's Court having jurisdiction to try such offences (Section 18(3) of the Act of 2015). The Board is required to assign reasons for the same and the copy of the order is to be provided to the child forthwith [Rule 10A(4) of the Model Rules of 2016]. The order of the Board on the preliminary assessment is appealable under Section 101(2) of the Act of 2015.

H.4 After the Children's Court receives the preliminary assessment, it has to make a decision on whether to try the child as an adult or as a child. The Children's Court may also receive an appeal against the order on preliminary assessment passed by the Board. The Children's Court can also take

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assistance of experienced psychologists and medical specialists other than those whose assistance had been obtained by the Board. The Children's Court while taking a decision would have to consider similar factors as the Board is required to consider while taking a decision on the basis of the preliminary assessment. The Children's Court shall record its reasons for arriving at a conclusion whether the child is to be treated as an adult or as a child.

If the Children's Court decides that there is no need for trial of the child as an adult it may conduct an inquiry as a Board and pass dispositional orders as per Section 18 of the Act of 2015. In such a situation, only an inquiry would be conducted and not a trial and the procedure for trial in summons case under the Cr.P.C. would be followed [Rule 13(7)(ii) of the Model Rules of 2016]. The Children's Court is to conduct the proceedings in camera and in a child friendly atmosphere.

H.5 Where the Children's Court decides that there is need for trial of the child as an adult as per the provisions of the Cr.P.C., 1973, it may pass appropriate orders considering the special needs of the child, the tenets of fair trial while maintaining a child friendly atmosphere.

In no case, there can be joint proceedings of a child alleged to be in conflict with law, with a person who is not a child.

## **I. Dispositional Orders and Rehabilitation**

I.1 After the conclusion of inquiry, if the Board or the Children's Court where it is exercising the powers of the Board, is satisfied that the child is involved in the alleged offence, it may pass one of the dispositional orders enumerated in Section 18 of the Act of 2015 i.e.:

- a) allow the child to go home after advice or admonition following appropriate inquiry against and counselling to the parent or the guardian and the child;
- b) direct the child to participate in group counselling and similar activities;
- c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board such as serving the elderly, helping out at a local hospital or nursing home or a school.
- d) order the parent or the child or the guardian to pay a fine. However, where the child is working, it has to be ensured that the provisions of any labour law are not violated.
- e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person on their executing a bond, with or without surety for the good behaviour and well-being of the child for a period not exceeding three years. The juvenile/child may also be placed under the supervision of a probation officer for maximum of three years.
- f) direct the child to be released on probation of good conduct and placed under the care of any fit facility for ensuring the good behavior and well-being of the child for any period not exceeding three years. Fit facility means a facility being run by a governmental or a registered voluntary or non-governmental organization prepared to temporarily own the responsibility of a child for a specific purpose and such organization is found fit by the Board. Such fit facility should be located nearest to the place of residence of the child's parent or guardian.

Where it appears to the Board that the child has not complied with probation conditions, it may order the child to be sent to a special home or place of safety for the remaining period of supervision.

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- g) direct the child to be sent to a special home for a period not exceeding three years and the special home should be located nearest to the place of residence of the child's parent or guardian (though sending the child to a special home should be the last resort as held in *Jitender Singh v. State of UP (2013) 11 SCC 193*). The Board may also reduce the period of stay to such period as it thinks fit (Section 97 of the Act of 2015). Even if the child attains the age of 18 years, he would still have to undergo sentence of three years, if so awarded; and the said three years could spill beyond the period when he attains majority (*Salil Bali v. Union of India (2013) 7 SCC 705*).

If the conduct and behaviour of the child has been such that it would not be in the child's interest, or in the interest of other children housed in a special home, the Board may send the child to a place of safety.

In addition to the said orders, the Board or the Children's Court may also pass orders to attend school, attend a vocational training centre, attend a therapeutic centre or prohibit a child from visiting, frequenting or appearing at a specified place or to undergo a de-addiction programme.

I.2 Before passing an order, the Board shall obtain a social investigation report prepared by the probation officer and take the findings of the report into account. All dispositional orders passed by the Board and those passed by a Children's Court whether the children are treated as adults or as children, must include an individual care plan for the rehabilitation of the child [Rule 11(3) and Rule 13(7)(vi) of the Model Rules of 2016] prepared by a probation officer or child welfare officer or recognized voluntary organization on the basis of interaction with the child and his family where possible. An 'individual care plan' has been defined in Rule 2(ix) of the Model Rules of 2016] as a comprehensive development plan for a child based on age and gender specific needs and case history of the child, prepared in consultation with the child, in order to restore the child's self-esteem, dignity and self-worth and nurture him into a responsible citizen. It is meant to address the health and nutrition needs, including any special needs, emotional and psychological needs as also educational and training needs, need for leisure, creativity and play, protection from all kinds of abuse, neglect and maltreatment, restoration and follow-up, social mainstreaming and life skill training. Thus it should include a plan for the child's restoration, rehabilitation, reintegration and follow-up.

I.3 The orders passed by a Children's Court in cases of children who are treated as adults must also include follow up by the probation officer or the District Child Protection Unit or a social worker.

The child who is treated as an adult and is found to be in conflict with law is to be sent to a place of safety till he attains the age of twenty-one years and thereafter, the person may be transferred to a jail. During the period of stay in place of safety, the child is to be provided reformatory services such as education, skill development. There has to be a yearly review year by the probation officer or the District Child Protection Unit or a social worker to evaluate the progress of the child [Rule 13(8)(iv) of the Model Rules of 2016] in the place of safety and to ensure that there is no ill-treatment to the child in any form. The Children's Court may also direct the child to be produced before it periodically and at least once every three months for the purpose of assessing the progress made by the child and the facilities provided by the institution for the implementation of the individual care plan [Rule 13(8)(v) of the Model Rules of 2016].

I.4 No child in conflict with law can be sentenced to death or life imprisonment without the possibility of release (Section 21 of the Act of 2015).

I.5 Where the Children's Court comes to a finding that the child was involved in the offence, and the child is sent to a place of safety, once the child attains the age of twenty-one years and is yet to complete the term of stay (which he was directed to undergo as per the dispositional order), the

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Children's Court is to review the case of the child to evaluate if the child has undergone reformatory changes and can be a contributing member of the society. The Children's Court has to take into account the periodic reports of the progress of the child prepared by the probation officer or the District Child Protection Unit or a social worker and it shall also interact with the child. For the said purpose assistance may be taken of experienced psychologists or psycho-social workers or other experts.

After making the evaluation, the Children's Court may decide to release the child forthwith or on execution of a personal bond with or without sureties for good behaviour or with directions regarding education, vocational training, apprenticeship, employment, counselling and other therapeutic interventions or on such conditions as it deems fit which include appointment of a monitoring authority for the remainder of the prescribed term of stay or decide that the child shall complete the remainder of his term in jail. Under the Model Rules of 2016, a probation officer or case worker or Child Welfare Officer or a fit person may be appointed as a monitoring authority.

I.6 The Board may discharge or transfer a child from one Special Home to another keeping in view the best interest of the child and his natural place of stay (Section 96 of the Act of 2015). On the report of a Probation Officer or social worker or Government or voluntary or non-governmental organization, the Board may consider the release of the child kept in a special home either absolutely or on such conditions as it may think fit to impose, permitting him to live with his parents or guardian or under the supervision of any authorized person named in the order and willing to receive and take charge of the child, to educate and train him for some useful trade or calling or to look after him for rehabilitation (Section 97(1) of the Act of 2015). If the child who has been released conditionally or the person under whose supervision the child has been placed, fails to fulfil the conditions, the Board, if necessary may cause the child to be taken charge of and to be placed back in the concerned home and the period of stay in the institution may also be extended.

I.7 A child may also be permitted leave of absence or be allowed on special occasions like examination, marriage of relatives, death of kith and kin or accident or serious illness of parent or any emergency of like nature, to go on leave under supervision, for a period generally not exceeding seven days, excluding the time taken in journey and the period of such absence will be deemed to be part of the time for which he was liable to be kept in the special home (Section 98 of the Act of 2015 and Section 59(2) of the Act of 2000). However, if the child refuses or fails to return to the institution, on the leave being exhausted or permission being revoked or forfeited, the Board may cause him to be taken charge of and to be taken back to the concerned home and the period of stay in the institution may also be extended.

## **J. Appeal and Revision**

An appeal against the order of the Board can be filed, within thirty days from the date of such order to the Children's Court though an appeal may be entertained even thereafter on sufficient cause for delay being shown. An appeal can also be filed against the order of the Board making the preliminary assessment. No appeal shall lie from any order of acquittal made by the Board in respect of a child alleged to have committed an offence (Section 101 (3) of the Act of 2015 and Section 52(2)(a) of the Act of 2000) other than the heinous offence by a child who has completed or is above the age of sixteen years. No second appeal lies from any order of the Court of Session passed in appeal. However, a person aggrieved by an order of the Children's Court may file an appeal before the High Court.

The High Court, may, at any time, either of its own motion or on an application received, call for the record of any proceeding in which the Board or the Children's Court or the Court has passed an order for the purpose of satisfying itself as to the legality or propriety of any such order (Section 102 of the Act of 2015 and Section 53 of the Act of 2000).

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## **K. Pending cases**

Under Section 25 of the Act of 2015, all proceedings in respect of a child alleged or found to be in conflict with law pending before any Board or court on the date of commencement of the Act shall be continued in that Board or court. As per the earlier law, if the juvenile/ child was found to have committed an offence, the court was to record such finding but not pass order on sentence and forward the juvenile/ child to the Board which would pass further orders and which may, for any adequate and special reason to be mentioned in the order, review the case and pass appropriate order in the interest of the juvenile/ child. Thus old matters are to be dealt with by the courts or the Boards themselves. Earlier the Section was interpreted to mean that the person should have continued to be less than 18 years as on 1.4.2001 to avail the benefit of the Section (*Pratap Singh v. State of Jharkhand* (2005)3SCC 551; *Brijendra Singh v. State of Haryana* MANU/SC/0230/2005: (2005)3SCC685). However the position has been clarified by the addition of Explanation to Section 20 in 2006 and the judgments in *Jayasingh v. State by Inspector of Police decided on 15.2.2008* and *Hari Ram v. State of Rajasthan* (2009)13 SCC 211 where it was held that all persons who were below the age of 18 years on the date of commission of the offence even prior to 1<sup>st</sup> April, 2001, would be treated as juveniles, even if the claim of juvenility was raised after they had attained the age of 18 years on or before the date of commencement of the Act and were undergoing sentence upon being convicted. Thus it stands categorically established that the relevant date for the applicability of the Act is the date of occurrence and not the date of trial or when the person alleged to be involved first appears or is produced before the court [reference may be made to Rule 90 of the Model Rules of 2016].

Where the claim of juvenility was raised after conviction for an offence and a person was found to be a child, several views were taken on ‘sentencing’ namely:

1. the child was found guilty of crime but the sentence awarded was quashed or
2. the child was held to be adequately punished for the offence committed by him by serving out some period in detention or
3. the entire case was remitted for consideration by the jurisdictional Board, both on the innocence or guilt of the child as well as the sentence to be awarded
4. if the child was found guilty or the case was examined on merits, after having found the child guilty of the offence, the matter was remitted to the jurisdictional Board on the award of sentence.

It has been held in *Jitender Singh v. State of UP* (2013) 11 SCC 193 that the appropriate course of action would be to remand the matter to the jurisdictional Board for determining the sentence.

## **L. Removal of disqualification attached to conviction**

A child who has committed an offence and has been dealt with under the provisions of the Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law (Section 24(1) of the Act of 2015 and Section 19(1) of the Act of 2000). However if the child has completed the age of sixteen years and is found to be in conflict with law by the Children’s Court under Section 19(1)(i), the said provisions would not apply. The Board is also to make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules [under Rule 14 of the Model Rules of 2016, the records of conviction in respect of a child in conflict with law shall be kept in safe custody till the expiry of the period of appeal or for a period of seven years, and no longer, and thereafter be destroyed]. However, in case of a heinous offence, where the child is found to be in conflict with law under Section 19(1)(i) of the Act of 2015, the relevant records of conviction of such child shall be retained by the

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Children's Court. Thus, if a child, except as provided in Section 24 of the Act of 2015 is found to be involved in an offence that would not be a bar to his seeking a government job. Likewise, a child in conflict with law cannot be thrown out of school merely because he is alleged to have committed an offence or because he remained in an observation home for some period. Section 74 of the Act of 2015 further provides that the police shall not disclose any record of the child for the purpose of character certificate or otherwise in cases where the case has been closed or disposed of and violation of the same would amount to an offence.

#### **M. Protection of identity of the child**

The media (print, visual) is barred from disclosing the name, address or school or any other particulars calculated to lead to the identification of the child except with the permission of the authority holding the inquiry, which may grant permission only, if in its opinion such disclosure is in the interest of the child (Section 74 of the Act of 2015 and Section 21 of the Act of 2000). The picture of the child cannot be published. The Board shall take cognizance of such violation by print or electronic media and shall initiate necessary inquiry and pass appropriate orders.

#### **N. Cruelty, Abuse & Exploitation of child during investigation and in the institution**

The Board, at the time of initiating the inquiry, is to satisfy itself that the child has not been subjected to any ill-treatment by the police or by any other person and is to take corrective steps in case of such ill-treatment. Where the police keep implicating the child in offence after offence simply because he was involved in an earlier offence, it would be violative of the principle of fresh start.

As regards cruelty with a child while in an institution, a child who is in an Observation Home or Special Home is in *de jure* custody of the Board and is kept there only for his own protection or because it is in his interest. Section 75 of the Act of 2015 provides punishment for cruelty to a child and that whosoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures him to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering shall be punishable with imprisonment upto three years or with fine of Rs.1,00,000/- or with both.

The Act of 2015 also lays down various other offences against the children in Sections 76 to 83 of the Act of 2015.

#### **O. Role of Legal Services Lawyers in the JJ System**

The legal services lawyers have a vital role to play in the juvenile justice system. Most of the children who are in conflict with law belong to poor families who cannot afford private lawyers, or there may be children who have no one to take care of them. In these circumstances they have to be represented by legal services counsels. Even the mandate of the law is that the children have to be informed about the availability of legal services counsels and they are to be represented by legal services lawyers, if not otherwise represented. While the legal services lawyers have to discharge the duties which any other counsel defending a case for his client has to discharge, the role of legal services lawyers in the Board is not limited to merely representing the child in the Board during the inquiry. The legal services lawyers in the Boards have to additionally play a proactive role as they primarily deal with cases of children which require sensitive handling. They are not to treat the cases before them as just cases but have to bear in mind the best interest of the children they represent.

They have to build trust so that the children and their families are forthcoming with the truth, besides explaining to the children and their families that the objective of the Act is not to penalize or punish the children but to rehabilitate them and to ensure their reintegration in the society.

- There may be instances where the child has been apprehended but is kept in police station for several days and the parents come to the Board seeking some remedy or the child may have

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been subjected to coercion. In such cases the legal services lawyers can file appropriate applications including for registration of FIR under Section 75 of the Act of 2015.

- Through their interaction with the child prior to the production of the child before the Board, especially if the child is taking drugs or is being used by someone to commit offences, the legal services lawyers can better assist the Board by highlighting these facts.
- At times, the child may disclose his whereabouts to the lawyer which he had not told the police.
- The lawyer is to inform the child and his family members about their rights. In fact, legal representation is needed at every stage so that the rights of the child are not violated.
- If it comes to the knowledge of the lawyer that adults are using children, he has to bring the same to the notice of the Board and insist on registration of FIR under Sections 77 or 78 or 83 of the Act of 2015 against the adult offenders. Similar would be the position where any of the rights of the children have been violated.
- The lawyers must argue for closure of the case where the final report is filed belatedly or insist on speedy disposal of matters as per the mandate of law. They can help in the process by not insisting on examination of all the witnesses as only an inquiry is held before the board and at times there may be a number of witnesses in the list of witnesses who are not material and whose examination would only delay the completion of the inquiry.
- If the child is a school going child and the presence of the child is not necessary, the legal services lawyers must seek exemption of the child from the proceedings before the Board but that must not be done only to delay the matter.
- The lawyers must also prepare the child for recording of his statement before the Board. Further it is the duty of the legal services lawyers to keep the child and his family informed about the court process, the proceedings before the Board and the next date given in the matter and the next stage of the matter. The legal services lawyers must assist the children in the legal proceedings throughout the case.
- At times the child may not be allowed to attend school because of the case against him when the lawyer can move an appropriate application before the Board.
- The lawyers have to move applications for bail where bail is not granted on the very first date of production of the child.
- The lawyers can put forth their views on the rehabilitation measures to be adopted for the child and assist in development of a care plan for the child which is best suited to his needs.
- The lawyers can also be involved in the follow-up process after the case of the child is over to ensure that the child does not come into conflict with law in the future.
- If there is any possibility that the identity of the child may be revealed by any person to the detriment of the child or any disqualification may be attached to him except as provided under Section 24 of the Act of 2015, the lawyers can move appropriate applications.
- If a child faces any problems in the institution where he is kept, the lawyers can bring the same to the notice of the Board. This also requires that the legal services lawyers should regularly interact with the children in the Homes.
- Apart from this, the legal services lawyers must maintain proper documentation in respect of each child, at the same time, ensuring that there is no breach of privacy of the child on their part.

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- The lawyers also have an important role to play during the preliminary assessment and they must bring before the Board all such factors which favour the person being treated as a child.
  - The lawyers can further file appeals or recommend filing of appeals against the order of the Board passed on age or on preliminary assessment.

The legal services lawyers can thus act as friends, philosophers and guides of the children in conflict with law. Besides the legal services lawyers in the Juvenile Justice Boards, the other legal services lawyers in regular courts may also be required to raise the plea of juvenility when it comes to their notice that a person who appears to be a child has been produced before a regular court or otherwise the person raises a claim to juvenility. Then there may be instances where an appeal or a revision is to be filed against the order of the Board and the same comes to the legal services lawyers and in such cases, they would be required to act as per the mandate of the Act of 2015. In such cases as well the legal services lawyers attached to the Juvenile Justice Boards can act in coordination with the lawyers who are assigned the cases in regular courts or in appellate and revisional courts.

#### **P. Cross-examination and Final Arguments**

The legal services lawyers working in the Boards would be required to undergo induction training as per the Training Module prepared by National Legal Services Authority. However, it is essential for them to keep in mind certain aspects of cross-examination and preparation of final arguments. In the proceedings before the Board and the Children's Court, when it is acting as the Board, as detailed above only inquiry is conducted and not a full-fledged trial. As such all the persons joined as witnesses in the charge-sheet/final report may not be examined and only the material witnesses would be examined. Further detailed cross-examination is generally not allowed and may not even be needed, keeping in view the nature of the proceedings. This places a more onerous duty on the lawyers conducting cross-examination to be able to cull out the truth from the limited cross-examination done of a witness. However, where the child is tried as an adult by the Children's Court, regular trial would be conducted and the cross-examination would be as for the adult accused.

The lawyers have to prepare the final arguments keeping the purpose of the inquiry in consideration. Apart from the material on record and evidence, they would be required to bring on record the circumstances surrounding the commission of the offence and factors which are in favour of the child.

While the above factors have to be borne in mind, extracts from the short notes on cross-examination and final arguments by Ms. Rebecca M. John in the Training Module for Legal Services Lawyers by NALSA are being reproduced here for the guidance of the legal services lawyers.

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**SHORT NOTE ON  
CROSS– EXAMINATION (CRIMINAL)**

— *Rebecca M. John\**

The main purpose of cross-examination (as per Section 138 of the Evidence Act, 1872), is to find out the truth and detect falsehood in the testimony of prosecution witnesses after his examination in chief. The following tips may prove useful for preparation of a case for purposes of cross-examination.

**GENERAL INSTRUCTIONS**

1. Study the charge-sheet/complaint carefully and understand the nature of allegations made and the case of the prosecution.
2. Analyse the First Information Report, statements of witnesses, the delay if any, in making them, the role assigned to each accused, the medical report and the post-mortem report, recoveries, if any, made from an accused, study the time and place of occurrence, chemical examiner’s report and all other documents that are relied upon by the prosecution.
3. Where the case of the prosecution relates to an occurrence having taken place at a particular spot, lawyers must inspect the scene of crime and make notes on points of interest of the scene of crime, after analyse of site-plan prepared by Police for the said occurrence. He is also required to examine location of a particular accused vis-à-vis the victim or the deceased or location of other eye witness.
4. Find out the witnesses who have been summoned for a particular day of hearing, well in advance.
5. Separate the statements made under Section 161 Cr.P.C. [examination of witness by police] or any previous statements made by the witnesses along with the document/documents that they seek to prove.
6. Understand how the witness/witnesses fit into the broader prosecution case.
7. Have extensive meetings with your client or the representative of your client to understand the factual matrix of his defence. Also, if the witness is known to your client, your endeavour should be to understand the witness’s past, the reason for deposing against your client and to ascertain whether there is any evidence to undermine his testimony and credibility, including past or present cases against him or any observation made by a Court against him. Question of character [in terms of Section 54 of the Evidence Act, 1872] can be asked only when character is in question.

**INADMISSIBLE EVIDENCE**

While examining the previous statements and documents, separate the admissible from the inadmissible e.g.

- a. “I was told by Reena that her mother-in-law was taunting her.” This statement is clearly hit by the rule of hearsay. Please examine in terms of Section 8 of the Evidence Act, 1872.
- b. “The accused was apprehended by the police team and when confronted, he confessed to his crime.”

This statement being a confession made to a police officer is inadmissible in evidence as per Sections 25 and 26 of the Indian Evidence Act.

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\* Senior Advocate.

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- c. “The photocopy of my daughter’s previous complaint is being produced by me”. This cannot be exhibited as it is a photocopy and is not therefore, primary evidence and is not to be read at the time of arguments.
  - d. If the prosecutor was to ask the witness the following question, “Is it correct that K is the active brain behind the business?” this being a leading question as defined under Section 141 of the Indian Evidence Act, must be objected to and cannot form part of the evidence, as per Section 142 of the Indian Evidence Act.
  - e. Prepare a proposed list of questions to be asked to the witness under examination, keeping in mind your overall defence.

**CASE OF ALIBI** [means the accused was elsewhere]

If an accused was not present at the time of the commission of the offence, then the witness making the allegation must be cross-examined to establish the alibi of the accused e.g.

The case against accused A is that he went to the parental home of his daughter- in-law R, situated in Malviya Nagar, New Delhi, on 1.1.2000 at 4 pm and demanded that her parents give a Honda City car and an MIG flat as dowry.

‘A’ was in Kolkata from 30.12.1999 to 5.1.2000. Clearly he was not in a position to visit R’s parents in Delhi on 1.1.2000 and make a demand for dowry.

Cross examination of (X), father of R who made this allegation

1. You had stated that A came to your house on 1.1.2000 at 4pm and made the aforesaid demand for dowry. I put it to you that you are making a false statement.
2. I further put it to you that ‘A’ was in Kolkata from 30.12.1999 to 5.1.2000 attending an International Jewellers’ Conference.
3. Mr X, you have fabricated a story pertaining to 1.1.2000, to set up a false case of demand of dowry, at a time when A was not in Delhi to make any such demand.

**QUESTIONS RELATING TO CREDIBILITY OF A WITNESS**

1. Mr X, is it correct that you were a Junior Engineer in the NDMC between 1985 to 1994?
2. Mr X, is it correct that you were arrested by the CBI in RC No xx/1994 for demanding and accepting a bribe of Rs. 15,000/- from one Yashpal, whose building plans you were deliberately not sanctioning?
3. Mr X, is it correct that the following is the certified copy of the RC in said case?  
(Copy to be placed on record and Exhibited)
4. Mr X, is it correct that you were convicted under Sections 7 and 13 (1) (d) read with 13(2) of the Prevention of Corruption Act, 1988, by the Court of the Special Judge, Delhi on 04.04.1997 and you were sentenced to undergo imprisonment of 2 years?
5. Mr X, is this the certified copy of the Judgement dated 04.04.1997? (to be exhibited)
6. It is correct that in Para 39 of the said judgement you have been indicted for setting up a false defence?

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7. Is it correct, that a departmental enquiry was instituted in the case against you and you were found to be guilty of having committed gross misconduct and your employment was terminated?

## **DEFENCE WITNESSES**

Rules of Caution:

1. Defence witnesses must further the case of the accused and must corroborate the defence taken by the accused during the cross examination of the Prosecution Witnesses.
2. There should be consistency between the defence taken during Prosecution Evidence and Defence Evidence.
3. As far as possible one should try to get Defence Witnesses to prove the record so that their credibility is not in doubt.
4. Meet and prepare with Defence Witnesses and explain to them the broad parameters of their evidence.

**ALWAYS KEEP ABREAST WITH THE LAW, EVEN BEFORE THE TRIAL BEGINS AND RELY ON JUDGEMENTS OF SUPERIOR COURTS THAT MAY BENEFIT YOU IN TRIAL**

## **CROSS EXAMINATION TO DISLODGE STATUTORY PRESUMPTIONS AND THE INGREDIENTS OF AN OFFENCE**

Let us take the example of a case under Section 304B IPC.

Facts - Pooja died in her parental home after being separated from her husband for over a year. There was no demand for dowry while she remained with her parents at her parental home. Her suicide note, recovered from the spot, revealed that she was upset with her husband as he was in a relationship with another woman. Fed up with her life and the fact that she was separated from her husband for a year, she committed suicide. She made no allegation that she was being harassed for bringing insufficient dowry, in her suicide note. After her death, her parents, for the first time, alleged that her husband and his father 'A' had come to their house, two days before Pooja's death demanding dowry. This allegation was not made by Pooja, in her suicide note. The endeavour of the prosecution was to bring the ingredients of Section 304 B IPC, into the case. The cross examination must seek to refute the allegation that "soon before her death" demand for dowry was made.

Questions for cross-examination of B, the father of Pooja

1. Is it correct that Pooja was residing with you for over a year before her death?
2. Would it be correct to say that during this period she had no contact with her husband?
3. I put it to you that her husband and his father 'A' had never made any demand for dowry, nor had they visited your house two days prior to death of Pooja.
4. Please see the suicide note of Pooja. Is it correct that she did not make any allegation of harassment on account of alleged demand for dowry by her husband and his father 'A'.
5. I put it to you that you have for the first time made this allegation after the death of Pooja, in order to falsely implicate her in laws.
6. I put it to you that Pooja did not commit suicide because of any alleged demand of dowry by her husband or his father 'A'.
7. Is it correct that Pooja and her husband were married for 8 years prior to her death?

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8. Is it correct that during these eight years neither you nor Pooja made any complaint to the police or anyone else about any harassment caused by her in laws on account of any grievance that she had brought insufficient dowry?
  9. Is it correct that other than Pooja, there were two other daughters in law in the house and they are living happily with their respective husband's?
  10. By showing the suicide note to her father-the writing on the note is of your daughter.

### **IMPORTANCE OF SUGGESTIONS:**

Suggestions, if not affirmed by the witness, do not constitute evidence nor does a suggestion that the witness is telling lies shake his credit or credibility. Suggestions, at best, only show that the party against whom the witness is deposing is not admitting the deposition to be correct.

Any allegation made against an accused in the examination-in-chief of the witness may be refuted in a suggestive form, to prevent exposure to a finding that the accused had not refuted the allegations against him. However, the best way to shake the veracity of the witness is to extract from him facts showing his chief examination to be false.

If a witness has given multiple statements to the investigating agency, care must be taken to see whether there are improvements/omissions/contradictions between the statements inter se and questions highlighting the same should be put to the witness. Furthermore, if there are significant variation in the statement of witness recorded u/s 161 Cr.P.C. and his examination in chief, the witness can be confronted with his previous statement in order to discredit him.

### **CONFRONTATIONS:**

If a witness while testifying in court goes beyond what he has stated in his statement under Section 161 Cr.P.C. or if he conceals or withholds relevant portions of his statement under Section 161 Cr.P.C., he must be confronted with his previous statements in terms of Section 145 of the Indian Evidence Act.

E.g. 161 statement – I was asked by A (accused) to find out whether the applications of all the companies had been filed at our counter that day.”

Statement before court- “I was asked by A (accused) to find out whether the application of company X had been filed at our counter that day”

The witness must be confronted with that portion of his previous statement where he mentioned the phrase all companies, and then it must be put to him that he has deliberately made an improvement in court by confining his allegation to company X.

The witness's credibility can be tested by asking him questions relating to the place of occurrence and other relevant materials that you may have collected during the preparation of the case.

Cross-examination consists of attacking the prosecution case as well as proving the defence. Both go hand in hand. Sometimes the defence may want to make inroads into the prosecution case by setting out the parameters of your defence with a particular witness. The defence may prove its defence or portion thereof subsequently, at an appropriate time.

One should remember that the questions must be simple and straight forward, the defence lawyer should know when to stop questioning the witness and should not over cross-examine a witness. One of the cardinal rules of cross-examination is never to ask questions, the answers of which, the counsel himself does not know.

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## **THE Demeanour OF THE WITNESS:**

The demeanour of the witness is always important in a criminal trial. Equally the demeanour of the cross-examiner is important. The cross-examiner should be firm but not emotional. And even when a witness has given an answer that is not entirely to the cross-examiner's satisfaction, the cross-examiner must not appear to be affected by the said answer.

When the witness takes the stand during examination in chief, the cross examiner should observe his demeanour very, very carefully to know the lengths to which the cross examiner can go in cross-examination. No amount of preparation in the office can act as a substitute for the visual impact of observing a witness in the box.

Forensic and other expert witnesses have to be cross-examined differently. If portions of the post-mortem report or a forensic examiner's report need to be contested, it is best to bring in an expert who gives an independent view of the report under challenge. The cross examiner should prepare the questions after taking into account his own expert's viewpoints. Forensic documents and DNA documents are typically voluminous and sometimes difficult to grasp. Do not hesitate to take the help of independent experts before cross-examining these crucial witnesses.

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## SHORT NOTE ON FINAL ARGUMENTS (CRIMINAL)

— *Rebecca M. John\**

While preparing for final arguments, lawyers must ensure that their file matches with the court's file in its entirety. Statements of prosecution witnesses must be complete in your file and placed in order, followed by the 313 statement of the accused, followed by defence evidence if any.

The formal charge framed in the case must be flagged and kept separately. Likewise, the file containing exhibited documents must be indexed and carefully marked. A trial lawyer should never wait for the conclusion of trial to put his file in order. On each date of trial, statements of witnesses that are recorded must be collected and filed. If a witness has exhibited any document, the same must be simultaneously identified and marked in your file.

### GENERAL INSTRUCTIONS

A. Once the trial files are properly indexed and marked, the lawyer preparing for final arguments, must carefully read the file keeping in mind, the nature and extent of the charges framed, looking for contradictions, omissions and variations in the prosecution case.

B. It must be remembered that every witness produced by the prosecution was required to prove a particular aspect of the prosecution case.

C. While reviewing statements recorded in court, it has to be seen whether the witness has indeed proved any fact in issue or has given any material evidence furthering the prosecution case or whether he has fallen short. If a witness has been confronted with his previous statements, those portions must be separately highlighted while preparing for final arguments.

D. Documents supposedly 'proved' in evidence must be re-examined to see whether they have passed the litmus test of 'proof'.

E. With electronic record forming a substantial part of modern day evidence, all Section 65B Indian Evidence Act certificates and testimonies must be examined to see whether they satisfy the requirements of the law and the ratio of the decision of the Supreme Court in *Anwar PV v. PK Basheer* reported in 2014 (10) SCALE 660.

F. Reading of evidence should not start necessarily from PW 1 and go onwards to PW 2 and PW 3 till the end. Evidence has to be read to bring out the chronological of facts alleged.

Hence, if there are several witnesses to the same event, say recovery of weapon, their testimonies should be read one after the other. Here the arguing defence counsel can show contradictions. All missing links and contradictions in the prosecution case have to be noted during preparation and can be pointed out while reading the evidence. In a case of circumstantial evidence, a note must be prepared on the various circumstances proved, not proved and disproved in the case. Thereafter, it must be seen whether the case proved by the prosecution is sufficient to form a chain of circumstances that are intrinsically linked and proved so that the hypothesis of guilt and guilt alone is reached against the accused.

G. At every stage, and for every submission that is to be made in the final arguments, try and rely on a judgment that is closest in facts and law to the submissions sought to be made. It is always important to go back to the specific charges framed against the accused in order to come to the conclusion that none of the charges set out against the accused have been conclusively proved by the prosecution. Defence lawyers, must and should resort to the first principles of criminal jurisprudence. For example,

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\* Senior Advocate.

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proof must be beyond reasonable doubt or suspicion is not substitute for proof and may be true is not the same at must be true.

Appropriate references from judgments should be made and the best points should be highlighted in the beginning of the summation.

H. The 313 Statement should be carefully examined to see whether important circumstances or facts that the prosecution seeks to rely upon have been put to the accused during his examination under Section 313 of the Code of Criminal Procedure.

I. Certain points can be taken at any stage of the trial. Points like the validity of a sanction order, the plea of juvenility, etc. which go to the root of the prosecution can be taken up for the first time even at the stage of final arguments. Ultimately, a good advocate must marshal his facts in a focused and logical manner so that he presents them with force and precision.

Final arguments constitute an important stage of any trial. While approaching the stage of final arguments, a lawyer must structure the same and as far as possible, put it in writing so that no important point or judgment escapes his attention at the time when he appears to make his closing remarks. It may be worthwhile, in some cases, to give written submissions, containing bullet points of the final arguments addressed by counsel and to further co-relate these points with judgments that may be annexed with the written submissions. In this way, counsel will be satisfied that all his submissions and judgments have been placed on record and there is no possibility of the same being overlooked.

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## *Epilogue*

*This is a workbook and the workbook must work. Does it really work? To find the answer, we actually put it to work.*

*The pilot training programme was held from 27<sup>th</sup> August, 2016 to 30<sup>th</sup> August, 2016 at Maharashtra Judicial Academy a beautiful residential institute on the shores of the Arabian Sea, away from the humdrum of the busiest city of the country and yet so close to it. Thirty Probation Officers and lawyers working in the Juvenile Justice Boards joined the course. It was an intense course of four full days, starting at 9:30 am and going right into the evening and at times continuing after dinner.*

*The experience of the experiment was fulfilling. It was a learning experience for all - both participants and resource persons. The most profound ideas of the Convention on the Rights of the Child (hereafter the Convention) and our own Juvenile Justice (Care and Protection of Children) Act of 2000 and of 2015 (hereafter The Act) call for herculean efforts to bring them to life. One may put the machinery in place by a law of the Parliament and by appointing the personnel to run the same through executive fiat. But the machine needs steers. It needs fuel. The steers are the training, and motivation the fuel.*

*The resource persons, fully charged with their missions, met the participants at the Academy - resource persons happy to get an opportunity to take their cause forward and the participants uncertain of what lay ahead. As Honorable Mr. Justice Dhananjaya Y. Chandrachud inaugurated the workshop by explaining why we must understand children in conflict with law and then joined the icebreaking session with all others present, enthusiasm gripped everyone and did not end even when we formally closed the four day workshop.*

*In any in-service training programme, there are three cardinal foci - knowledge, skill and attitude. One of the exercises in the workshop required the participants to answer "how does the child and his/her family members look upon you?". The most common answer was "Police". Police! But why police? "If we are police, people take us seriously; they take us in; they speak to us." How is such a perception created? Probation Officer, in fact, is more like other options offered as answer to the question, such as - a member of the Juvenile Justice Board (JJB), a teacher, or a village headman. This exchange led to the most important question for introspection for the Probation Officers - "who am I? "*

*Swami Vivekananda said "an ounce of practice is better than tons of theory". The theory or philosophy in the Convention and the Act will not be of any value till the actors in the Juvenile Justice System are able to use them in practice. Hence, we had to keep this end in mind while devising the programme. We attempted to put the theories into practice in all the sessions - giving the participants knowledge, skill and attitude. One of the participants Mohammad Sajid G Kazi, described the training as "never been experienced before". Mr Mahendra Mali from Dadra wrote "a huge difference has been made. It has made me more sensitive towards children and given me a perspective to think from a different angle without being judgmental." Shivanand Bina Kantha wrote "now I can prepare 1) Social Investigation Report and 2) Individual Care Plan which will help the JJB in making a judgement and help to rehabilitate children as contributing members of the society." Others wrote about enhanced knowledge in communication skill, child development, drug addiction, counseling and legal intricacies involved in the Act.*

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*What did we learn as organizers? Yes, we learn from each other as much as from the participants. Further we realized what areas would need more emphasis next time we plan such a program and what could be avoided. We definitely know that none of the resource persons was satisfied with the time allotted to him/her. We have rescheduled the whole program to convert the same into a five day programme. The new Rules under the Act call for a fifteen day training programme. We may add refreshers and reorientations to the present module with added case studies and experiences particularly in rehabilitation- an area not so well attended so far by the JJB.*

*We have named our work Samvedan - one with others in pain. We may recall the prayer of St Francis of Assisi*

*“O Divine Master*

*Grant that I may not so much seek*

*To be consoled as to console*

*To be understood as to understand*

*To be loved as to love.*

*For it is in giving that we receive;*

*IT is in pardoning that we are pardoned;*

*IT is in dying that we are born to eternal self.”*

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