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**RAJASTHAN STATE LEGAL SERVICES AUTHORITY**

**RAJASTHAN HIGH COURT CAMPUS , JAIPUR BENCH, JAIPUR**

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**State Level Orientation Workshop for Stakeholders under Juvenile Justice System**

**Resource document**

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**Organised by : Rajasthan State Legal Service Authority ( RSLSA)**

**In collaboration with :Rajasthan State Judical Academy, Jodhpur**

**Supported by**: 

**RAJASTHAN STATE LEGAL SERVICES AUTHORITY**

Legal aid is an essential part of the Administration of Justice. “Access to Justice for all” is the motto of the Authority. The goal is to secure justice to the weaker sections of the society, particularly to the poor, downtrodden, socially backward, women, children, handicapped etc. but steps are needed to be taken to ensure that nobody is deprived of an opportunity to seek justice merely for want of funds or lack of knowledge. To ensure this the Authority organizes Legal Literacy and Awareness Camps in different parts of Rajasthan.

The government Of Rajasthan in consultation with the Chief justice Of the High court, framed the Rajasthan State Legal Services Authority Rules, 1995, and this Authority also framed the Rajasthan State Legal Services Authority Regulations, 1999 to give effect to the provision of the Legal Services Authority Act , 1987( Act no.39 of 1987).

The Rajasthan State Legal Services Authority came into existence on 07.07.1998 by notification issued by the State Government.

**RAJASTHAN STATE JUDICIAL ACADEMY, JODHPUR**

The Law Commission of India, time & again recommended for establishment of judicial academies at the National and at State levels, for training of the judicial officers. In All India Judges' Association case [WP(C) No.1022/89, decided on March 21, 2002- AIR], Hon'ble Supreme Court also accepted recommendations of the First National Judicial Pay Commission, headed by Hon'ble Mr Justice Shetty, for the establishment of State Judicial Academies, as per the direction given in the above case in November, 1991 [AIR 1992 SC 165]

In Rajasthan, judicial academy was constituted and established in the name of School of Judicial Administration & Rajasthan Judicial Academy (S.J.A.R.J.A.). Now, the Academy exists as an academic wing of Hon'ble High Court of the State, for the training & continuing judicial education of judicial officers as well as for the staff/officials of the State judiciary.

**UNICEF**

UNICEF is fully committed to working with the Government of India to ensure that each child born in this vast and complex country gets the best start in life, thrives and develops to his or her full potential.  The organization began its work in India in 1949 with three staff members and established an office in Delhi three years later.  Currently, it advocates for the rights of India’s children in 16 states.

UNICEF’s goal is to advance the rights of children, adolescents and women to survival, growth, development, participation and protection by reducing inequities based on caste, ethnicity, gender, poverty, region or religion

# **State Level Orientation Workshop for Stakeholders under Juvenile Justice System**

Juvenile Justice is a key area of social policy, dealing with growing number of children and youth who have been marginalised and displaced by rapid socio-economic changes. The Framers of Constitution of India placed a duty on the state to ensure that they live a life of dignity and respect. While 39 percent of India’s population is children aged 0-18 years. Rajasthan is home to 29.8 crores children which is 43.6 percent of the total state population. The UNCRC is ratified in 1992 and promised to ensure the right of children by Government of India. Yet 40% of our children continue to live in unacceptable situations both the statutory homes under Juvenile Justice (Care and Protection of Children) Act 2015 as well as in the wider community.

## **The Juvenile Justice (care and protection of children) Act, 2015**

New Juvenile Justice (care and protection of children) Act, 2015 (JJ Act, 2015) has been enacted across the country (except J&K) from Jan 15, 2016. This is a comprehensive legislation for the children dealing two categories of children viz. Children in conflict with Law and children in need of care and protection. Considering all these gaps, this new Juvenile Justice (Care and Protection of Children) Act 2015 has been enacted with an objective to provide proper care and protection, development, treatment and social re-integration of children through the provision of child friendly approach keeping the best interest of the children.

## **Objectives of the Orientation:**

* To sensitize and orient participants to the new Juvenile Justice (Care and Protection of Children) Act 2015
* To create clarity and understanding of the roles and responsibilities of members of JJBs and different personnel involved in the implementation of the Act;
* To facilitate sharing of best practices for strengthening implementation of the Juvenile Justice Act;
* To create awareness on the role of NGOs and community as provided in the Act;
* To create an understanding of the concept of rehabilitation and social reintegration and to enable effective assessment of options; and
* To facilitate the speedy disposal of cases.

## Outcome programmes-

All the participants of the programmes would be able to have a overview of new JJ Act, 2015. All the CWC Chairmen and Members, Members of JJBs, Principal Magistrates, other functionaries would be sensitized to the system. Through active participation and interaction, all the stakeholders would get practical solutions of the problems which they might have faced in field. CWCs, JJBs and other agencies engaged in juvenile justice system would be able to identify limitations in their respective jurisdictions, their roles and responsibilities so that they may not encroach in the jurisdiction of each other. Most importantly, they would gather niceties and delicacies to adhere their child friendly attitude, for want of which efficient and effective working under Juvenile Justice System is not possible. Thus, these programmes would certainly set a road map for smooth, effective and child friendly working.

# Overview of Legal Frame Work for Child Rights

## National Perspective

Children constitute 39 per cent of the country’s population (Census 2011). Children on account of their tender age and immature mind need special care and protection. They have certain special rights and legal entitlements that are being acknowledged nationally and internationally. Recognised by policy-makers as a supreme national asset, children deserve the best in national investment, for their survival, good heath, development opportunity, security and dignity.

The Constitution of India provides that the State shall direct its policy towards ensuring “*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*”[[1]](#footnote-2). This directive clearly positions children as deserving of the highest priority in national realisation of the Fundamental Rights and the special provisions for those most vulnerable to discrimination and exclusion. This is India’s clear national mandate for what must be done, through policy, law, planning, and practical programming, with conscious provision of the required resources of knowledge and skills, time and attention, material and financial support, and dedicated practical effort to reach all children, throughout the period of childhood.

[[2]](#footnote-3)In active recognition of international standards, the Government is a signatory to the Universal Declaration of Human Rights since its adoption in 1948, and moved the UN General Assembly to declare an International Year for the Child in 1979. It acceded to the UN Convention on the Rights of the Child (UN CRC) in 1992, and ratified its Optional Protocols on Involvement of Children in Armed Conflict, and on Sale, Prostitution and Pornography, in 2005. These acts of accession and ratification stand as treaty obligations which India has undertaken to fulfil.

India’s accession to the UN CRC significantly affirms its recognition of children in the development process in the country as human beings with distinct and inalienable rights rather than as passive objects of care and charity. The UN General Assembly’s Special Session on Children (UNGASS) held in May, 2002 was convened to review progress and emphasized global commitment to children's rights. India, accepted the resulting ‘World fit for Children’ decisions ‘without reservations.’ and pledged to take affirmative steps to address the major gaps identified in terms of securing all rights of children. The Government has subsequently taken several significant measures to achieve these aims.

India has passed various child-centric legislations such as the Juvenile Justice Care and Protection Act (2000) and the new Act of 2015 keeping in line with standards of care and protection required in present time, establishment of the National Commission for the Protection of Child Rights (NCPCR) (2005), the Prohibition of Child Marriage Act (2006), the Right of Children to Free and Compulsory Education Act (2009), and the Protection of Children from Sexual Offences (POCSO) Act (2012)

## State Perspective

Rajasthan is a largest state of India has population of over 68.54 million out of which 28.10 million children (0-18 years)[[3]](#footnote-4). Out of that around 40 % children are vulnerable and need of care and protection. The state government has taken lot initiatives in line with national act and policy to ensure the rights of children such as it has signed a memorandum of understanding with the Central Government on 6th January 2010 according to which provisions laid down in the same will be binding on both the parties. Specific Objectives of the schemes are

* To Institutionalise essential Service and Strengthen structures
* To enhance capacities at all systems and persons involved in service delivery
* To create database and knowledge base for child protection services
* To strengthen child protection at family and community level
* To coordinate and network with government institutions and non-governmental institutions to ensure effective implementation of the scheme
* To raise awareness about child rights, child vulnerability and child protection services.

Under the scheme and as per provision of JJ Act2015, different structures were established from State to Panchayat Level for child protection and implementation of the scheme. District Child Protection Unit (DCPU) is a project management unit of ICPS at district. Rural Development and Panchayati Raj department has released notification for the constitution of BLCPCs and PLCPCs.

## Legal frame Work

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| Year  | Document  | Purpose  |
| 1959 | Immoral Trafficking Prevention ( Regulation ) Act ,1956 | An Act in pursuance of the International Convention signed at New York on the 9th day 1950, for the prevention of immoral trafficking  |
| 1986 | Child Labour (Prohibition and Regulation )Act 1986 and amended in the year 2015  | The act provides prohibition in employment of children below the age of 14years in all occupations and adolescents (i.e. those between 14 and 18 years of age) in hazardous occupations and processes. |
| 2006 | The Prevention of Child Marriage Act  | An act to provide for the prohibition of solemnisation of marriages and for matters connected there with or incidental there to.  |
| 2000, 2006 and 2015  | The Juvenile Justice care and protection Act 2000 amended in the year 2006 and now it 2015 Act  | An Act to consolidated and amend the law relating to Juveniles in conflict with law and children in need of care and protection, by providing proper care, protection and treatment by catering to their development needs by adopting child friendly approach in the adjudication and disposition of matters in the best interest of the children and for their ultimate rehabilitation through various institutions establishment under this enactment. |
| 2005 | The Commissions for Protection of Child Rights 2005 | An Act to provide for the constitution of the National Commission and State commission for Protection of Child Rights and Children’s courts for providing speedy trial of offences against children or violation of child rights for matter connected there with or incidental there to  |
| 2012 | The Protection of children from Sexual Offences (POCSO) Act  | An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of special court of trial for such offences and matters concerned there with or incidental thereto  |

## History & Principles of Juvenile Justice System

The Juvenile Justice system in India is based on the principle of promoting, protecting and safeguarding the rights of children. Recognising the vulnerability of children and the need for special and different treatment, it was in 1986 that for the first time, that a uniform Juvenile Justice Act (JJA) was enacted for the whole of India, when Parliament decided to replace the Children’s Acts in various states and union territories. This Act incorporated the UN Standard Minimum Rules for administration of Juvenile Justice (‘Beijing Rules’) of 1985. It was enacted for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters related to and disposition of delinquent juveniles. However, the history of the implementation of the JJA, 1986, is a history of hopes not realised and promises not fulfilled.

A review of theAct was undertaken to look into the lacunae as well as its non-implementation. This process together with India’s ratification of the UN Convention on the Rights of the Child (CRC) in 1992, the changing social attitudes towards criminality by children and the need for a more child- friendly juvenile justice system were some of the factors that led to the passing of the Juvenile Justice (Care and Protection of Children) Act 2000 (JJA 2000). This Act replaced the earlier Act of 1986. The JJA, 2000 conforms to the UN Convention on the Rights of the Child, the ‘Beijing Rules’, and the United Rules for the Protection of Juveniles Deprived of their Liberty and all other relevant national and international instruments clearly defining a child as persons up to the age of 18 years. The Act is based on the provisions of the Indian Constitution and the UN CRC:

In 2006 The Act was amendedagain and brought about 26 amendment. The Act known as “The reformatory Act” deals with two categories of children, namely children in need of care and protection and children in conflict with law. The competent authority to deal with children in need of care and protection is the Child Welfare Committee which constitutes a Chairperson and four other members, one of whom at least should be a woman. Chapter IV of this Module would focus in detail about Children in need of care and protection and the functioning of the CWC in rehabilitation and disposition of cases. Juvenile Justice Board (JJB) is the competent authority to deal with children in conflict with law which comprises of three members. The Chairperson of the Board should be a First Class Judicial Magistrate and two honorary social workers out of whom at least one should be a woman.

In 2015 The parliament Passed the new juvenile Justice Act and replace the existing Juvenile Justice ( care and protection of children) Act of 2000 so that juvenile in conflict with law in the age group of 16-18, involved in Heinous Offences , can be trial as adult . The Act come in to force on 15th January 2016.

# **Salient feature of Juvenile Justice (Care and Protection of Children) Act, 2015[[4]](#footnote-5)**

## Definition of Child in need of care and protection expanded Section 2(14)

The definition has been expanded to include a child who is found working in contravention of labour laws, at imminent risk of marriage before attaining the age of marriage or who resides with a person and such a person has or has threatened to injure, exploit, abuse or neglect the child or violate any other law or whose parents or guardians are unfit to take care of him.

## CWC is no longer the ‘final authority ‘in case of children in need of care and protection

The District Magistrate (DM) shall be the grievances redressal authority for CWC and anyone connected with the child may file a petition before the district magistrate who shall consider and pass the order.

## Procedure of Inquiry

* The Process of inquiry has been fastened i.e. the CWC shall now conduct an inquiry of nay child produced before it, as opposed to children for whom production reports are received ( as in the earlier act)
* Procedure relating to inquiry is even now more clear and includes procedure for orphaned and surrendered children.
* Social investigation now to be completed within 15 days
* Pendency to be reported to DM
* If pendency remain unaddressed, the committee may be terminated
* Standing panel of person to stand by to fill in vacancies
* In case of delay in fill up the vacancies , nearby CWC may step in to handle the cases in the intervening period
* There shall be at least three members present during disposal of the case.

## An extensive definition for adoption has been provided

Adoption means the process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities that are attached to a biological child. And the child’s Right to family has been recognised (Sec 56-73)

## Aftercare

After care has been defined children between 18 to 21 years of age.

## Authorised Foreign Adoption Agency has been defined

Authorised Foreign Adoption Agency means a foreign social or child welfare agency that is authorised by Central Adoption Resource Authority on the on the recommendation of their Central Authority or Government department of that country for sponsoring the application of non-resident Indians origin or foreign prospective adoptive parents for adoption of a child from India .

## Surrender of Children

Parents who intended to surrender their child before the CWC shale be given two months’ time to reconsider their decision before placing the child before the Specialised Adoption Agency (Sec 35)

## Adoption

Detailed guidelines on eligibility of adoptive parents and procedure for adoption (Chapter VIII)

## Abandoned Children

Abandoned Children found by the child care facilities will be kept for 60 days before being given up for adoption or foster care ( Instead of 30 days as per JJ Act 2000) (Sec38)

## Appeal regarding foster care and sponsorship

No appeal shall lie before children’s court on decisions by the committee related to Foster care and sponsorship Aftercare. Appeal for such cases lie with the DM (Sec 101)

## Implementation of Act

NCPCR and SCPCR will be the nodal authorities to be monitoring the implementation and to look into cases that arise out of the Act (Sec 109)

## Child Care Institution (CCI) Section 41

* Under the new JJ Act , valid registration for Children’s home is mandatory
* There shall be on CCI in every district
* CCI may be established or maintained by or through voluntary non-governmental organisations.

## Child Welfare Committee (CWC) Section 27

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| * Setting of CWC is mandatory by the State government
* One or more CWCs to be constituted in every district
* Induction training and sensitizations for all members obligatory within2 month from the date of notification
* Qualification : Member should have been actively involved in health, education or welfare activities pertaining to children for at least seven years or is a practicing professional with a degree in child psychology or psychiatry or law or social or social work or sociology or human development
 | * The committee cannot be appointed for more than 3 years
* The committee shall meet at least twenty days in a month
* The DCPU to provide the assistance i.e. secretarial support
* The CWC has power to amend any order passed by itself on receiving application on its behalf ( Sec 104)
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## Sponsorship Sec 45

* Broader definition of sponsorship- individual, group or community
* Not available to single father
* Eligibility is now extended to parents who are incapacitated due to accident or ‘unable to take care of their child’

## Rehabilitation and Reintegration Services Sec 53

* Mandatory for all institutions to provide services specified in the Act
* New provisions regarding disability , education including reference to RtE , Skill development , Occupational Therapy & Life skill education , mental health and legal aid.

## Prohibition of disclosure of identity of children Section 74

* Complete prohibition on disclosure of identity in any way
* Exception in disclosure is “best interest”
* **Change in Punishment:** Earlier it was find of Rs. 25,000/- which is now replaced with imprisonment of 6 month or fine Rs 2 lakhs.

## Offences against Children Section 75-85

* Punishment for cruelty to child
* Employment of child for begging
* Penalty for giving intoxicating liquor or narcotic drugs or psychotropic substance to a child .
* Using a child for vending , peddling, carrying , supplying or smuggling any intoxicating liquor, narcotic drugs or psychotropic substance to a child
* Exploitation of a child for adoption without following prescribed procedures
* Sale or procurement of children for any purpose
* Corporal punishment
* Use of child by militant groups or other adults
* Kidnapping and abduction of child
* Offences committed on disabled children

Punishment for offences against children have become more stringent.

## Presumption and determination of Age (section94)

* It should be obvious to the Committee, based on the appearance of the person that the said person is a child after which it shall record such observation stating the age of the chid as nearly as may be end and proceed with the inquiry.

## Child Welfare Police officer and Special Juvenile Police unit (Section 107)

* Rank of the CWO is specified as not below the rank of assistance sub-inspector , with aptitude , appropriate training and orientation
* CWO to work in co-ordination not only with police but also with voluntary and non-governmental organisations
* SJPU in each district to be headed by police officer not below the rank of a Deputy Superintendent of Police or above
* Railway police dealing with children included in SJPU

## Power and Responsibilities of Child Welfare committee (CWC)

**29.** (*1*) The Committee shall have the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection.

(*2*) Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force, but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.

## **30.** The functions and responsibilities of the Committee shall include—

(*i*) Taking cognizance of and receiving the children produced before it;

(*ii*) Conducting inquiry on all issues relating to and affecting the safety and wellbeing of the children under this Act;

(*iii*) Directing the Child Welfare Officers or probation officers or District Child Protection Unit or non-governmental organisations to conduct social investigation and submit a report before the Committee;

(*iv*) Conducting inquiry for declaring fit persons for care of children in need of care and protection;

(*v*) Directing placement of a child in foster care;

(*vi*) Ensuring care, protection, appropriate rehabilitation or restoration of children in need of care and protection, based on the child’s individual care plan and passing necessary directions to parents or guardians or fit persons or children’s homes or fit facility in this regard;

(*vii*) selecting registered institution for placement of each child requiring institutional support, based on the child’s age, gender, disability and needs and keeping in mind the available capacity of the institution;

(*viii*) Conducting at least two inspection visits per month of residential facilities for children in need of care and protection and recommending action for improvementin quality of services to the District Child Protection Unit and the State Government;

(*ix*) Certifying the execution of the surrender deed by the parents and ensuring that they are given time to reconsider their decision as well as making all efforts to keep the family together;

(*x*) Ensuring that all efforts are made for restoration of abandoned or lost children to their families following due process, as may be prescribed; (*xi*) Declaration of orphan, abandoned and surrendered child as legally free for adoption after due inquiry;

(*xii*) Taking *suo moto* cognizance of cases and reaching out to children in need of care and protection, who are not produced before the Committee, provided that such decision is taken by at least three members;

(*xiii*) Taking action for rehabilitation of sexually abused children who are reported as children in need of care and protection to the Committee by Special Juvenile Police Unit or local police, as the case may be, under the Protection of Children from Sexual Offences Act, 2012;

(*xiv*) Dealing with cases referred by the Board under sub-section (*2*) of section 17;

(*xv*) Co-ordinate with the police, labour department and other agencies involved in the care and protection of children with support of the District Child Protection Unit or the State Government;

(*xvi*) In case of a complaint of abuse of a child in any child care institution, the Committee shall conduct an inquiry and give directions to the police or the District Child Protection Unit or labour department or child line services, as the case may be;

(*xvii*) Accessing appropriate legal services for children;

(*xviii*) Such other functions and responsibilities, as may be prescribed.

## Role of Juvenile Justice Board (JJBs)

**4.** (*1*) notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government shall, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging its functions relating to children in conflict with law under this Act.

(*2*) A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of First Class not being Chief Metropolitan Magistrate or Chief Judicial Magistrate (hereinafter referred to as Principal Magistrate) with at least three years’ experience and two social workers selected in such manner as may be prescribed, of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class.

(*3*) No social worker shall be appointed as a member of the Board unless such person has been actively involved in health, education, or welfare activities pertaining to children for atleast seven years or a practicing professional with a degree in child psychology, psychiatry, sociology or law.

(*4*) No person shall be eligible for selection as a member of the Board, if he ––

(*i*) has any past record of violation of human rights or child rights;

(*ii*) has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence;

(*iii*) has been removed or dismissed from service of the Central Government or a State Government or an undertaking or corporation owned or controlled by the Central Government or a State Government; (*iv*) has ever indulged in child abuse or employment of child labour or any other violation of human rights or immoral act.

(*5*) The State Government shall ensure that induction training and sensitisation of all members including Principal Magistrate of the Board on care, protection, rehabilitation, legal provisions and justice for children, as may be prescribed, is provided within a period of sixty days from the date of appointment.

(*6*) The term of office of the members of the Board and the manner in which such member may resign shall be such, as may be prescribed.

(*7*) The appointment of any member of the Board, except the Principal Magistrate, may be terminated after holding an inquiry by the State Government, if he ––

(*i*) Has been found guilty of misuse of power vested under this Act; or

(*ii*) Fails to attend the proceedings of the Board consecutively for three months without any valid reason; or

(*iii*) Fails to attend less than three-fourths of the sittings in a year; or

(*iv*) becomes ineligible under sub-section (*4*) during his term as a member.

**5.** Where an inquiry has been initiated in respect of any child under this Act, and during the course of such inquiry, the child completes the age of eighteen years, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued by the Board and orders may be passed in respect of such person as if such person had continued to be a child.

**6.** (*1*) 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, subject to the provisions of this section, be treated as a child during the process of inquiry.

(*2*) The person referred to in sub-section (*1*), if not released on bail by the Board shall be placed in a place of safety during the process of inquiry.

(*3*) The person referred to in sub-section (*1*) shall be treated as per the procedure specified under the provisions of this Act.

**7.** (*1*) The Board shall meet at such times and shall observe such rules in regard to the transaction of business at its meetings, as may be prescribed and shall ensure that all procedures are child friendly and that the venue is not intimidating to the child and does not resemble as regular courts.

(*2*) A child in conflict with law may be produced before an individual member of the Board, when the Board is not in sitting.

(*3*) A Board may act notwithstanding the absence of any member of the Board, and no order passed by the Board shall be invalid by the reason only of the absence of any member during any stage of proceedings:

Provided that there shall be atleast two members including the Principal Magistrate present at the time of final disposal of the case or in making an order under sub-section (*3*) of section 18.

(*4*) In the event of any difference of opinion among the members of the Board in the interim or final disposal, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Principal Magistrate, shall prevail.

**8.** (*1*) Notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, the Board constituted for any district shall have the power to deal exclusively with all the proceedings under this Act, relating to children in conflict with law, in the area of jurisdiction of such Board.

(*2*) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Children’s Court, when the proceedings come before them under section 19 or in appeal, revision or otherwise.

(*3*) The functions and responsibilities of the Board shall include’––

(*a*) Ensuring the informed participation of the child and the parent or guardian, in every step of the process;

(*b*) Ensuring that the child’s rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation;

(*c*) Ensuring availability of legal aid for the child through the legal services institutions;

(*d*) wherever necessary the Board shall provide an interpreter or translator, having such qualifications, experience, and on payment of such fees as may be prescribed, to the child if he fails to understand the language used in the proceedings;

(*e*) directing the Probation Officer, or in case a Probation Officer is not available to the Child Welfare Officer or a social worker, to undertake a social investigation into the case and submit a social investigation report within a period of fifteen days from the date of first production before the Board to ascertain the circumstances in which the alleged offence was committed;

(*f*) Adjudicate and dispose of cases of children in conflict with law in accordance with the process of inquiry specified in section 14;

(*g*) transferring to the Committee, matters concerning the child alleged to be in conflict with law, stated to be in need of care and protection at any stage, thereby recognising that a child in conflict with law can also be a child in need of care simultaneously and there is a need for the Committee and the Board to be both involved;

(*h*) Disposing of the matter and passing a final order that includes an individual care plan for the child’s rehabilitation, including follow up by the Probation Officer or the District Child Protection Unit or a member of a non-governmental organisation, as may be required;

(*i*) Conducting inquiry for declaring fit persons regarding care of children in conflict with law;

(*j*) conducting at least one inspection visit every month of residential facilities for children in conflict with law and recommend action for improvement in quality of services to the District Child Protection Unit and the State Government;

(*k*) order the police for registration of first information report for offences committed against any child in conflict with law, under this Act or any other law for the time being in force, on a complaint made in this regard;

(*l*) order the police for registration of first information report for offences committed against any child in need of care and protection, under this Act or any other law for the time being in force, on a written complaint by a Committee in this regard;

(*m*) conducting regular inspection of jails meant for adults to check if any child is lodged in such jails and take immediate measures for transfer of such a child to the observation home; and

(*n*) Any other function as may be prescribed.

**9.** (*1*) When a Magistrate, not empowered to exercise the powers of the Board under this Act is of the opinion that the person alleged to have committed the offence and brought before him is a child, he shall, without any delay, record such opinion and forward the child immediately along with the record of such proceedings to the Board having jurisdiction.

(*2*) In case a person alleged to have committed an offence claims before a court other than a Board, that the person is a child or was a child on the date of commission of the offence, or if the court itself is of the opinion that the person was a child on the date of commission of the offence, the said court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) to determine the age of such person, and shall record a finding on the matter, stating the age of the person as nearly as may be: Provided that such a claim may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such a claim shall be determined in accordance with the provisions contained in this Act and the rules made there under even if the person has ceased to be a child on or before the date of commencement of this Act.

The copy of the Act both in English and Hindi

1. Constitution of India; Article 39 [↑](#footnote-ref-2)
2. National Action plan for Children [↑](#footnote-ref-3)
3. 2011 census [↑](#footnote-ref-4)
4. Justice and Care [↑](#footnote-ref-5)