

11

STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT
(2005-2006)

(FOURTEENTH LOK SABHA)

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

THE JUVENILE JUSTICE (CARE AND PROTECTION OF
CHILDREN) AMENDMENT BILL, 2005.

ELEVENTH REPORT

Presented to Lok Sabha on 12.12.2005

Laid in Rajya Sabha on 12.12.2005



LOK SABHA SECRETARIAT
NEW DELHI

December, 2005/ Agrahayana, 1927 (Saka)

CONTENTS

PAGES

COMPOSITION OF THE COMMITTEE.....

INTRODUCTION.....

REPORT

ANNEXURES

ANNEXURE I Statement showing the status of notification of Rules by States/UTs under 'The Juvenile Justice (Care and Protection of Children) Act, 2000.'.....

ANNEXURE II State-wise details of setting up of Juvenile Justice Boards and Child Welfare Committees by States/UTs..... ..

ANNEXURE III The Juvenile Justice(Care and Protection of Children) Amendment Bill, 2005.....

ANNEXURE IV Minutes of the Sixth Sitting of the Committee held on 27 October, 2005.....

ANNEXURE V Minutes of the Seventh Sitting of the Committee held on 16 November, 2005.....

ANNEXURE VI Minutes of the Eighth Sitting of the Committee held on 8 December, 2005.....

APPENDIX

**Statement of Recommendations/Observations Contained
in the Report -----**

COMPOSITION

STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT (2005-2006)

Smt. Sumitra Mahajan - CHAIRPERSON

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- | | | |
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| 2. Shri A.K. Singh | - | Joint Secretary |
| 3. Shri R.K. Saxena | - | Deputy Secretary |
| 4. Shri Bhupesh Kumar | - | Under Secretary |
| 5. Km. M. Tunlut | - | Sr. Executive Assistant |

INTRODUCTION

I, the Chairperson of the Standing Committee on Social Justice and Empowerment having been authorised by the Committee to submit the Report on their behalf present this Eleventh Report of the Committee on 'The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005' of the Ministry of Social Justice and Empowerment.

2. The Bill was introduced in Lok Sabha on 29 August, 2005 and was referred to the Committee by the Hon'ble Speaker, Lok Sabha on 30 August, 2005 under Rule 331E (b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

3. The Committee wish to express their thanks to the officials of the Ministry of Social Justice and Empowerment for tendering evidence before the Committee and placing before them detailed written notes on the subject and for furnishing the information the Committee desired in connection with the examination of the Bill.

4. The Committee considered the Bill at their sittings held on 27 October and 16 November, 2005 and adopted the Report at their sitting held on 8 December, 2005 and approved "The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005".

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

New Delhi;
8 December, 2005
17 Agrahayana, 1927(Saka)

SUMITRA MAHAJAN,
Chairperson,
Standing Committee on Social
Justice and Empowerment.

REPORT

Background relating to “The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005.”

1.1 The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005 was introduced in Lok Sabha on 29th August, 2005 and referred by the Hon’ble Speaker to the Standing Committee on Social Justice and Empowerment for examination and report. The Bill seeks to amend ‘The Juvenile Justice (Care and Protection of Children) Act, 2000’ which came into force w.e.f. 1st April, 2001 throughout the country except in the State of Jammu and Kashmir.

1.2 The Ministry have stated that the JJ Act was aimed at providing a juvenile justice system for juveniles in conflict with law and children in need of care and protection by adopting a child friendly approach in the adjudication and disposition of matters in the best interests of children and for their rehabilitation keeping in view the developmental needs of the children. Certain provisions of the JJ Act were challenged before the High Court of Delhi in a public interest litigation (Civil Writ Petition No. 3447 of 2001). During the course of hearings, the High Court observed that some of the provisions of the Juvenile Justice Act merited re-consideration. Keeping in view these observations, the Ministry proposed to carry out amendments in sections 32, 33, 56, 57 and 59 of the Juvenile Justice Act. Accordingly, an amendment Bill was introduced in the Lok Sabha on 24.7.2003. Meanwhile, taking cognizance of the said Bill, the High Court of Delhi disposed of the above said Civil Writ Petition on 28.7.2003. The Lok Sabha referred the said Bill to the Parliamentary Standing Committee on Labour and Welfare for examination and

report. Before the Standing Committee submitted its report, the Lok Sabha was dissolved and the said Bill lapsed.

1.3 Before re-introducing the amendment Bill, the Ministry thought it necessary to revisit the amendment proposal again in the light of suggestions received by the Standing Committee from various child/legal experts. Based upon those consultations, a more comprehensive amendment proposal involving several provisions including those sought to be amended earlier has been formulated.

Comparison between JJ Bill, 2003 and JJ Bill, 2005:

1.4 The provisions of the Bill introduced earlier and corresponding changes proposed now are compared as under.

- (i) Clause (m) in Section 2 of the Act is proposed to be omitted as in the earlier Bill.
- (ii) A time period of 24-hour has been introduced in the Section 32 of the Act within which a child has to be produced before the Child Welfare Committee. This Amendment is similar to the earlier Bill. However, in the earlier Bill, the words “any police officer or special juvenile police unit” were replaced by words “any member of a special juvenile police unit”. This change has been dispensed with in the present proposal as it was felt during the consultations that the interaction of the child and his coming into contact with police cannot be avoided.
- (iii) In Section 33 of the earlier Bill, the words “any police officer or special juvenile police unit” were replaced by the words “any member of a special juvenile police unit”. However, in the current amendment proposal, the words, “any police officer or special juvenile police unit or

the designated police officer” have been sought to be removed as it was felt during the consultations that two agencies, namely, the police and the Child Welfare Committee should not be inquiring about the child at the same time. This was in addition to the reason that the inclusion of any police officer who is not trained and has no experience and expertise in child psychology should not be associated in the inquiry process.

- (iv) The words “local authority” are sought to be removed in Section 56 and 57 of the Act as in the earlier Bill.
- (v) The words “for maximum seven days” have been sought to be replaced by the words “for a period generally not exceeding seven days” in Section 59(2) of the Act as in the earlier Bill.

Additional provisions introduced in the JJ Bill, 2005:

1.5 The additional provisions sought to be amended are discussed below:

- (i) The words “through various institutions established under this enactment” are sought to be removed from the preamble as they limit rehabilitation to be undertaken under the Act through institutions while a non-institutional approach for rehabilitation is also feasible.
- (ii) An additional provision is sought to be added in Section 1 to clarify that the Act shall apply to all cases involving detention or criminal prosecution of juveniles under any other law.
- (iii) A change is sought to be made in Section 2(1) defining juvenile in conflict with law so as to make it more explicit and remove doubts that the relevant date for a person to be considered as a juvenile is the date

of alleged offence so as to decide applicability of the Act in particular cases. In addition, with the same intention of making it more explicit regarding applicability of the Act, an explanation has been sought to be provided after Section 20.

- (iv) An additional section 7A is sought to be introduced laying down the procedure to be followed when claim of juvenility is raised before any court.
- (v) A proviso is sought to be added after Section 10(1) providing a juvenile in conflict with law to be produced before the Magistrate or a member of the Board within a period of twenty-four hours of his apprehension.
- (vi) A provision of a juvenile in conflict with law to be given to the charge of a fit institution under Section 12 (1) is sought to be made as an additional alternative to detention in observation homes considering difficulty in obtaining release on bail for such children.
- (vii) To provide for a maximum period of three years confinement of a juvenile in a special home under Section 15(1)(g). At present no upper limit has been laid down in the Act. An additional proviso is also sought to be added after section 16(2) clarifying that period of detention shall not exceed the maximum sentence that could have been passed under Section 15.
- (viii) Under Section 21, in addition to juvenile in conflict with law being covered for prohibition of publication of name etc, children in need of care and protection are also sought to be covered in a similar manner.

- (ix) In Section 39, the existing anomaly in the meaning of restoration and protection of a child as given in the explanation has been sought to be removed.
- (x) The words “through institutional and non-institutional methods” are sought to be removed and replaced by “through such mechanism as may be prescribed”. Further, a provision is sought to be added for enabling childless parents to adopt a child and limit the same to citizens of India only under section 41 of the Act.
- (xi) The words “local authority” are sought to be removed from wherever they occur due to reasons stated in para 2 above. In addition, a proviso and an explanation is sought to be added for review of the case of a juvenile undergoing such sentence, who has ceased to be so on or before the commencement of this Act, and appropriate order to be passed in the interest of such juvenile.
- (xii) A proviso is sought to be added in Section 68 in order to ensure the applicability of model rules framed by the Central Government to the States until rules in respect of that matter are framed by the State Governments.

I. Clause 2 of the Bill (Amendment of Long Title of the JJ Act, 2000):

1.6 Clause 2 of “The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005” seeks to amend the Long Title of the JJ Act, 2000 by substituting the words “through various institutions established under this enactment” with the words “and for matters connected therewith or incidental thereto”.

1.7 Explaining the rationale for the proposed amendment, the Ministry have informed that the words “through various institutions established under this enactment” indicate that rehabilitation has to be undertaken under the JJ Act only through institutions established under the Act and there is no scope for a non-institutional approach for rehabilitation, which is not the case.

1.8 During the course of evidence, the Committee enquired about the meaning of institutional and non-institutional approach for the rehabilitation of orphaned, abandoned, neglected and abused children. The Secretary responded as under:

“Non-institutional would mean, like foster care. Foster care means when certain people are willing to taking children and keeping children with them as part of their family on payment of a certain amount for the upkeep of that child. That is called foster care. So the families have to be carefully selected. They do not want to permanently adopt children but they do not mind bringing up the child in the family for some time for the benefit of that child. The child can be restored if the child’s parents are there. If the child’s parents are not there, he may go into an orphanage. But, they can be restored also. Institutional means, it may either be an observation home or children’s home. Observation home is for children in conflict with law. Children’s home is for children in need of care and protection. They can either be in these homes, which is institutional care or foster care, adoption or sponsorships. Now, there are many schemes in the private sector where one can sponsor a child.

Basically, there is foster care, adoptions, sponsorships or any other idea which may come up which is non-institutional.”

1.9 In a written reply furnished to the Committee, the Ministry have further explained that the institutional approach involves lodging in various homes. The non-institutional approach includes foster care where a child is placed in the care of a family for a temporary period. The other non-institutional alternatives are sponsorship where a child can remain in his/her family but his expenditure for various needs like nutrition, education, health care etc are sponsored by an individual or an organization. Adoption is another form of non-institutional approach where a child is placed in a family to which he does not belong and a permanent relationship is established.

1.10 The Committee note that ‘The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005’ seeks to amend, among other things, the Long Title of the principal Act to create scope for a non-institutional approach for rehabilitation, which has not been provided for in the Act. The Ministry have informed that non-institutional approach would include foster care, adoptions, sponsorships etc. The Committee express apprehension that in case some unscrupulous or undesirable person happen to take custody of a child in need of care and protection and keep him in his foster care, he may abuse the child physically and emotionally for his unlawful gains. The Committee, therefore, desire that adequate provisions should be made in the Act to safeguard and protect the interests of children kept under foster homes from being exploited and abused. The Ministry may evolve guidelines for placing a child under foster home so that extreme care is taken in the selection of families and also for keeping a check by verifying from time to time, the welfare of the child kept

under foster care. The Committee also urge the Ministry to undertake awareness generation programmes to encourage sponsoring children for adoption under various schemes in private sector.

II. Clause 4 and 5 of the Bill (Deletion of the words `local authority`):

1.11 Section 2 clause(m) of the Act, whereby `local authority` has been defined, has been omitted in clause 4 of the Bill. Similarly clause 5 of the Bill seeks to omit the words `local authority`, `or local authority` and `or the local authority`, wherever they occur throughout the principal Act. The rationale put forth by the Ministry is that members of the `local authority` may not necessarily be conversant with child psychology and welfare and should not be given powers such as discharge or transfer a child in need of care and protection or a juvenile in conflict with law from one children home/special home to another or from imprisonment to a special home or a fit institution as the case may be. Accordingly, the words `or the local authority` have been sought to be omitted from sections 56, 57, 61, 64, and 66 and hence, section 2(m). While it is recognized that role of `local authority` is important, we cannot ignore the fact that members of these bodies may not have sufficient knowledge about child welfare. Such people may even get a juvenile discharged who may again get into the company of anti-social elements.

1.12 When enquired whether the local authority may be able to provide valuable suggestions and make better decision towards the welfare of the juvenile due to their knowledge of the child's background, family condition and local cultural values, the Ministry have stated that the deletion of `local authority` has been carried out on the basis of the advice given by the then Attorney General of India after his assistance was sought by the Delhi High Court. According to the Attorney General, there is no minimum qualification prescribed in the case of members of the local authority as is the case with the members

of the Juvenile Justice Boards or the Child Welfare Committees where knowledge relating to child welfare and child psychology is specifically mandated. Besides, members of the local authority may have generalized knowledge of a child's background but not the particular knowledge about the circumstances of the case which the JJB members may be possessing on the basis of their enquiry. Further, Section 10(2) provides that the State Government may make rules consistent with Act to provide for persons through whom any juvenile in conflict with law may be produced before the JJB. Accordingly, as per Rule 22(7) of the Model Rules, the Board shall order a probation officer to conduct a social investigation, reporting on the character and antecedents of the juvenile or child with a view to assessing the best possible mode for placement such as, with the family, an institution or otherwise permissible under the Act. Hence, when an institution of probation officer is provided under the Act for finding out the antecedents of the juvenile or the child, there may not be a necessity of local authority or its members to carry out the same responsibility.

1.13 The Committee further pointed out that JJBs/CWCs have not yet been constituted in many States, and sought the rationale behind deletion of 'local authority' in Section 56 and 57 of the JJ Act pertaining to discharge and transfer of a juvenile from one children home or special home to another and even outside the State. The Ministry have informed that the fact that Juvenile Justice Boards or Child Welfare Committees have not been constituted cannot be the reason for placing the same responsibility on the local bodies. The solution lies in immediate constitution of JJBs/CWCs where they have not been set up. Besides, the local authority has generalized knowledge whereas JJB will have specific knowledge of the case. Moreover, the basic responsibility and power of transferring a child or a juvenile lies with the State Government. It cannot be expected of a local authority of one State to approach a local authority of another State for the purpose. The function can best be performed by a State Government.

1.14 The Committee observe that clause 5 of the Bill seeks to omit the words 'local authority', 'or local authority' and 'or the local authority' throughout the principal Act. The rationale put forth by the Ministry is that members of the local authority may not necessarily be conversant with child psychology and welfare. The Committee do not fully endorse the Ministry's views that knowledge of a child's background by members of the local authority may be a generalized one with no particular knowledge about the circumstances of the case which the JJB members may be possessing on the basis of their enquiry and also there is no need for the local authority when an institution of probation officer is provided under the Act for finding out the antecedents of the juvenile or the child. The Committee are of the opinion that the local authority can also provide valuable suggestions and make better coordination towards the welfare of the juvenile due to their vast experience, knowledge of child's background, family conditions and local cultural values. Thus, there is scope for the local authority to play an important role in exercising the powers and discharging the duties conferred under the Act in relation to a juvenile in conflict with law and a juvenile in need of care and protection particularly in States/Districts where no JJBs/CWCs have been set up so far. The Committee, therefore, recommend that the words 'local authority' may be retained in the Act so that the services, experience and wisdom of the members of local authorities could be utilized for the betterment and welfare of juveniles in conflict with law and children in need of care and protection.

III. Clause 3, 6 and 19 of the Bill (Incorporation of the term 'in conflict with law' after 'juvenile'):

1.15 While examining the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005, the Parliamentary Standing Committee on Social Justice and Empowerment suggested to incorporate the term 'in conflict with law' after 'juvenile' in Clauses 3, 6 and 19 of the Bill to make it more explicit. The matter was examined in detail by the Ministry of Social Justice and Empowerment in consultation with the Ministry of Law and Justice. Based upon the examination, the Ministry have submitted certain proposals for consideration as under:

(i) Clause 3 of the Bill: Section 1(4) of the Bill states as under:

“Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all cases involving detention, prosecution or sentence of imprisonment of juveniles under any such law.”

1.16 The Committee had suggested to add the words 'in conflict with law' after 'juvenile' in the Bill as it would make it more explicit. The Ministry have stated that incorporation of the words 'in conflict with law' after the word 'juveniles' and before the words 'under any such law' may, therefore, be considered. However, they have pointed out that it would make the sentence unwieldy and awkward.

(ii) Clause 6 of the Bill: The Ministry have informed that Clause 6 of the Bill proposes a new section outlining the procedure to be followed when claim of juvenility is raised before any court. Whenever a juvenile is apprehended, the determination of juvenility becomes a basic issue to be decided for invoking the provisions of the Act. In the Act, there was no provision to deal with this aspect. The provision is intended for determination of age of such person as to

whether he is a juvenile or a child and not the determination of the issue as to whether he is in conflict with law or in need of care and protection.

(iii) Clause 19 of the Bill: Clause 19 of the Bill seeks to amend Section 64 of the principal Act by inserting the following:

“Provided that the State Government or as the case may be, the board may, for any adequate and special reason to be recorded in writing, review the case of a juvenile under going such sentences, who has ceased to be so on or before the commencement of this Act, and pass appropriate order in the interest of such juvenile.”

1.17 The Ministry have stated that Clause 19 of the Bill makes an enabling provision for review of the case of a juvenile undergoing a sentence and who has ceased to be so on or before the commencement of the Act and pass an appropriate order in the interest of such juvenile.

1.18 In regard to the suggestion of the Committee, the Ministry submitted that although the main provision and the proviso have to be read together, the words `in conflict with law' could be added after the words `juvenile' and before the words `undergoing such sentence in the proviso. However, they have pointed out that it would make the sentence unwieldy and awkward.

1.19 During the course of evidence, Hon'ble Chairperson sought clarification on the reply of the Ministry that incorporation of the term `in conflict with law' after `juvenile' in Clauses 3, 6 and 19 of the Bill would make the sentence awkward. The Secretary clarified as under:

“What we have meant is that it is awkward in reading. That is all and we thought that perhaps the substantive meaning of the Clause will come out more clearly if we leave it as it is”.

1.20 On being further asked whether the Ministry are agreeable to the addition, the Secretary submitted that they agree to the same.

1.21 The Committee find that the term 'juvenile' has been used by the Ministry to denote both a juvenile 'in conflict with law' and 'in need of care and protection' throughout the principal Act. The Committee feel that there is a need to be more explicit in the use of the term 'juvenile' in Clauses 3, 6 and 19 of the Bill corresponding to Section 1(4), Section 7A and Section 64 respectively as those Sections specifically pertain to a juvenile in conflict with law and not a juvenile who is in need of care and protection. The Committee are not convinced with the reply of the Ministry that incorporation of the term 'in conflict with law' after 'juvenile' in Sections 1(4), 7A and 64 would make the sentence unwieldy and awkward. In their opinion, the terms and expressions used in the Act should be precise and clear cut with no ambiguity. The Committee, therefore, desire that the Ministry should incorporate the term 'in conflict with law' after 'juvenile' in Clauses 3, 6, and 19 of the Bill seeking to amend Sections 1, 7 and 64 of the principal Act respectively.

IV. Clause 7 of the Bill (Provision for a juvenile not to be put in the lock-up or Jail with adult(s):

1.22. In Clause 7 of the Bill, the following sub-section has been proposed to be substituted for sub-section (1) of Section 10 of the principal Act.

“(1) As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty-four hours of his apprehension excluding the time

necessary for the journey, from the place where the juvenile was apprehended, to the Board.”

1.23 The Committee observe that Clause 7 of the Bill seeks to substitute sub-section (1) of section 10 of the principal Act stating that ‘as soon as a juvenile in conflict with law is apprehended by the police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board within twenty-four hours of his apprehension excluding the time necessary for the journey’. The Committee view that a juvenile who is apprehended by the police is likely to be put in a police lock-up or Jail along with other adults before being produced to the Juvenile Justice Board. The Committee desire that adequate safeguards may be provided to prevent such incidents from happening and urge the Ministry should insert a proviso after sub-section(1) of section 10 of the Amendment Bill stating that “At no point of time will a juvenile in conflict with law be placed in a lock-up or Jail with adult(s)”.

V. Clause 12 of the Bill (Penalty for publication of the name, address or school or any other particulars of a juvenile in need of care and protection involved in any proceeding under the Act):

1.24 Clause 12 of the Bill seeks to substitute section 21 of the principal Act with the following :

“21(1) No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law or a child in need of care and protection under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile or child nor shall any picture of any such juvenile or child be published:

Provided that for reasons to be recorded in writing, the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile or the child.

(2) Any person who contravenes the provision of sub-section (1), shall be liable to a penalty which may extend to one thousand rupees.”

1.25 The Committee note that section 21 of the principal Act has been proposed to be substituted with a new section to cover, in addition to juveniles in conflict with law, those juveniles in need of care and protection involved in any proceeding under the Act for prohibition of publication of their names, addresses or schools or any other particulars etc. The Committee, however, find that the penalty of one thousand rupees imposed under the Act for contravening the above provision is woefully inadequate to deter a person from committing such an act. The Committee, therefore, recommend that the penalty may be raised to twenty-five thousand rupees. The money so recovered may be utilized for the welfare of the juvenile or the child under the supervision of the concerned Competent Authority.

VI. Clause 20 of the Bill (Applicability of model rules framed by the Central Government):

1.26 Section 68(1) of the principal Act states as under:

“The State Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.”

1.27 The following proviso has been proposed to be inserted after sub-section(1) above:-

“Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the State Government may make rules under this section, and where any such model rules have been framed in respect of any such matter, they shall apply to the State until the rules in respect of that matter is made by the State Government and while making any such rules, so far as is practicable, they conform to such model rules.”

1.28 The rationale put forth by the Ministry is that the addition is to give statutory status and to ensure applicability of Model Rules framed by the Central Government to States/UTs who have not made their own Rules till the rules are framed in this regard by the respective States/UTs.

1.29 The Ministry have furnished a Statement indicating the State-wise position of framing of rules under the JJ Act as shown in Annexure I. It has been observed that rules are under process for notification in the States/UT of Goa, Punjab, Jharkhand and Lakshadweep while information in this regard has not been received from Kerala, Arunachal Pradesh, Uttaranchal, Jammu & Kashmir, Nagaland and Assam.

1.30 The Committee enquired whether a definite time frame can be prescribed for States to frame their own rules under the Act wherein the Ministry have stated that as a temporary measure, model rules framed by the Central Government under the amended JJ Act shall apply to States / UTs who have not notified their rules. The administration of the Act is the responsibility of the State Government and the role of the Central Government is only persuasive.

1.31 The Committee note that the Ministry have sought to insert a proviso after sub-section(1) of Section 68 of the principal Act to give statutory status

and ensure applicability of Model Rules framed by the Central Government to States/UTs who have not made their own rules till the rules are framed by the respective States/UTs. The Ministry have also informed that no information has been received from the States of Kerala, Arunachal Pradesh, Uttaranchal, Jammu & Kashmir, Nagaland and Assam regarding notification of the rules while in Goa, Punjab, Jharkhand and Lakshadweep, it is under process. The Committee are, therefore, of the firm view that the thrust should be on framing of rules by States/UTs under the Act at the earliest i.e. at least within six months to one year from the date when the Act came into force for effective implementation of the Act and ensuring that speedy justice is rendered to the juvenile. The Committee, therefore, urge the Ministry to prescribe definite time-frame for States/UTs to frame rules under the Act and make all out efforts to persuade the States/UTs to frame rules and notify the same within the prescribed time- frame.

VII. Amendment of Section 2(d) of the JJ Act, 2000 to include begging children under the definition of 'children in need of care and protection'.

1.32 The Committee observed that child beggars, especially those who have been forced to beg by anti-social elements and who constitute the largest segment of neglected children have not been mentioned under the definition of 'children in need of care and protection' in Section 2(d) of the principal Act.

1.33 When asked to state the steps being taken to bring child beggars under the purview of the JJ Act through incorporation of the same under section 2(d) of the Act, the Ministry have informed that child beggars, especially those who

have been forced to beg by anti-social elements do require care and protection and they are already covered under section 2(d) (i) and (viii) of the Act.

1.34 The Committee note the reply of the Ministry that child beggars are already covered under Section 2(d)(i) and (viii) of the JJ Act, 2000 where a child in need of care and protection has been defined. The Committee also note that although a child who is found without any home or settled place or abode and without any ostensible means of subsistence and who is being or is likely to be abused for unconscionable gains are included under Section 2(d)(i) and (viii), yet child beggars have not been specifically mentioned. Keeping in view the fact that child beggars constitute the largest segment of neglected children in the country, the Committee desire that they should be specifically mentioned under the definition of 'children in need of care and protection' in the Act. Steps may, therefore, be taken to insert the words 'child beggars' in Section 2(d)(i) or (viii) or a new proviso may be inserted in Section 2(d) of the Act.

VIII. Constitution of Juvenile Justice Boards(JJBs)/Child Welfare Committees(CWCs).

1.35 The Committee observe that Section 4 and 29 of the JJ Act, 2000 provides for constitution of JJBs/CWCs respectively and enquired about the number of States which have so far constituted the same in their respective States/Districts. The Ministry have informed that as per the information available with them, 203 JJBs and 239 CWCs have been constituted. The State-wise details of JJBs/CWCs as furnished by the Ministry are annexed (Annexure II). The Act provides that the State Government may constitute for a

district or a group of districts, one or more JJBs/CWCs. Hence, a JJB/CWC in one district may be catering to a group of districts.

1.36 Asked whether undue delay has taken place in the constitution of JJBs/CWCs in the States and if so, the reasons and the steps taken to constitute the JJBs/CWCs expeditiously, the Committee have been informed that since the coming into effect of the JJ Act, 2000 w.e.f. 1.4.2001, the Ministry have been continuously impressing upon the State Governments regarding the need for its speedy implementation and especially the constitution of JJBs and CWCs. Letters at various levels have been written regularly for this purpose. The speed of the response of the State has varied. While most of the States have constituted these bodies, the process in some of the States is yet to be completed.

1.37 The Committee further enquired whether a provision can be incorporated in the Bill to make it mandatory for all the States to set up JJBs/CWCs within a definite time-frame wherein the Ministry have stated that keeping in view the federal set up under the Constitution, it may not be desirable to make it mandatory for the States to set up such Boards within a definite time frame.

1.38 The Committee feel that the number of JJBs/CWCs constituted so far i.e., 203 JJBs and 239 CWCs are inadequate to cater to those juveniles in conflict with law and in need of care and protection. The Committee also express concern over the undue delay in constitution of JJBs/CWCs as States/UT like Bihar, Madhya Pradesh, Daman & Diu, Uttar Pradesh, Orissa, Punjab and Delhi are still in the process of constituting the JJBs/CWCs in all or in some districts, even after five years since the Act came into force. The Committee, therefore, feel that there is an urgent need to make it mandatory for

the States to constitute these Boards/Committees expeditiously and urge the Ministry to prescribe a definite time-frame in the Act for the same.

IX. Establishment of Observation Home / Special Home for a juvenile in conflict with law and Children's Home / Shelter Home for a juvenile in need of care and protection.

1.39 Section 8 of the JJ Act, 2000 provides for establishment of observation homes for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under the Act. Section 9 provides for establishment of special homes for their reception and rehabilitation.

1.40 Accordingly, Section 34 of the Act provides for setting up of children's homes for the reception of a child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation while Section 37 states that the State Government may recognize, reputed and capable voluntary organizations and provide them assistance to set up and administer as many shelter homes for juveniles or children as may be required.

1.41 On being asked whether observation homes/special homes have been established in all the States/Districts, the Ministry have stated that they have not received complete information from the State Governments regarding observation homes/special homes established in the States across the country. It is the responsibility of the State Governments to set up these homes as per requirement.

1.42 The Committee further enquired whether the observation homes/special homes are provided with all facilities to cater to the juveniles in conflict with law wherein they have been informed that many of the observation/special homes lack in facilities for juveniles in conflict with law such as sanitation and

recreation facilities. The State Governments have been requested to send proposals for assistance under the Scheme, "A Programme for Juvenile Justice" for upgradation of these facilities and for which funds can be provided by the Ministry.

1.43 The Ministry have also stated, in reply to a query whether all the States are having adequate number of children's home that complete information has not been received from the State Governments regarding the number of children homes in various States across the country. It is the responsibility of the State Governments to set up these homes as per requirement. There is no central norm regarding the adequacy of these homes.

1.44 As regards appointment of Inspection Committees for children's home under Section 35 of the Act, the Committee have been informed that as per the latest information received, Karnataka, Himachal Pradesh, Haryana, Mizoram and Delhi have constituted Inspection Committees.

1.45 The Committee also enquired about the number of 'Shelter homes' functioning State-wise wherein the Ministry have informed that complete information has not been received from the State Governments regarding shelter homes established in the States across the country. It is the responsibility of the State Governments to set up these homes as per requirement. However, the Ministry is implementing a scheme "An integrated programme for street children" under which a total of 105 projects were assisted during 2004-05 through NGOs.

1.46 The Committee note with concern that complete information is not available with the Ministry regarding the number of observation homes/special homes for juveniles in conflict with law and children's homes/shelter homes for juveniles in need of care and protection, set up by the States/UTs across the

country. Only five States viz, Karnataka, Himachal Pradesh, Haryana, Mizoram and Delhi have constituted Inspection Committees for inspecting the Children's homes. The Committee further note that though the Act provides for facilities and various types of services in the special homes/shelter homes, many of these homes are lacking in basic facilities like sanitation and recreation facilities. The Ministry have laid the onus for setting up and managing the homes on the State Governments. The Committee are, however, of the view that monitoring of the implementation of the Act is the responsibility of the Central Government and hence, the Ministry should ensure that the provisions of the Act are implemented effectively. The Committee, therefore, urge the Ministry to identify the States/UTs/Districts where observation homes/special homes and children's homes/shelter homes have not yet been established and make all out efforts to persuade those States/UTs to set up such homes with proper facilities at the earliest. The Ministry may also pursue all the States/UTs to constitute Inspection Committees for the Children's homes and ensure that inspection of the homes are carried out periodically.

1.47 The Committee further note that the Ministry is implementing the scheme of 'A programme for Juvenile Justice' for upgradation of facilities provided in observation homes/special homes with 50% central assistance to the States. The Committee, therefore, desire that the Ministry should create awareness and generate wide publicity about the scheme so that States/UTs may come forward with adequate proposals and the observation homes/special homes are

equipped with proper facilities to render services to a juvenile in conflict with law.

X. Procedure for adoption.

1.48 The Committee observe that Section 41(4) of the JJ Act provides for children's homes or the State Government run institutions for orphans to be recognized as adoption agencies both for scrutiny and placement of such children for adoption.

1.49 Asked to state why other licensed and recognized adoption agencies, which account for large number of adoptions in the country have been kept outside the purview of the Act, the Ministry have stated that Section 41 (4) of the Act refers to homes which have been set up or recognized under the Act and empowered to place children for adoption. The Act does not bar any other adoption agency from undertaking activity relating to adoption. The factual position is that State Governments license adoption agencies to place children in adoption within the country and these licensed agencies can also place children in adoption within the country. As regards inter-country adoption, the concerned agencies have to be recognized by CARA.

1.50 When enquired whether there are commercial rackets running in some of the States involving buying and selling of young children for adoption and the protective measures adopted by the Government to protect the children from such rackets, the Ministry have informed that they, as well as CARA have been writing to State Governments for taking preventive measures and the need for maintaining strict vigil against such activities.

1.51 The Committee wanted to know whether any mechanism has been evolved to ensure that the NGOs, which manage the shelter homes, will not

use the child for illegal purposes or unscrupulous gain and will produce the child before the Child Welfare Committee within the stipulated period. They have been informed that the State Governments prescribe inspection of NGOs for continuation of grants and are responsible for ensuring that the homes are run properly. The State Governments are also responsible for ensuring that the children are being produced before the Child Welfare Committee within the stipulated period.

1.52 The Committee express their apprehension that NGOs, who are actively involved in managing the shelter homes may engage in unscrupulous activities for unlawful gain like buying and selling young children for adoption. The Committee, therefore, desire that adequate safeguards should be incorporated in the Act or in the Model Rules framed thereunder to prevent the NGOs from indulging in such activities. The Committee also urge the Ministry to persuade the States/UTs to maintain strict vigil over the activities of the NGOs; ensure that the homes are run properly and impose penalty on the NGOs if a child lodged under their care is not produced before the Child Welfare Committee within the stipulated time.

New Delhi;
8 December, 2005
17 Agrahayana, 1927(Saka)

SUMITRA MAHAJAN,
Chairperson,
Standing Committee on Social
Justice and Empowerment.

ANNEXURE I

THE STATES/UTs WHO HAVE NOTIFIED THE RULES IN RESPECT OF THEIR STATES/UTs UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

<u>Sl. No.</u>	<u>Name of the States/UTs</u>	<u>Rules notified on</u>
1	Andhra Pradesh	Rules notified on 8.5.2003
2	Bihar	Rules notified on 1.9.2003
3	Chhatisgarh	Rules notified
4	Gujarat	Rules notified on 31.12.2003
5.	Haryana	Rules notified on 11.10.2002
6	Himachal Pradesh	Rules notified on 4.5.2002
7	Karnataka	Rules notified on 26.9.2002
8	Madhya Pradesh	Rules notified on 15.7.2003
9	Maharashtra	Rules notified on 30.8.2002
10	Manipur	Rules notified
11	Mizoram	Rules notified on 1.8.2003
12	Meghalaya	Rules notified on 8.12.2004
13	Pondicherry	Rules notified on 22.3.2002
14	Rajasthan	Rules notified on 23.7.2002
15	Sikkim	Rules notified on 13.3.2003
16	Tamil Nadu	Rules notified on 14.2.2002
17	Tripura	Rules notified on 23.3.2002
18	Uttar Pradesh	Rules notified on 31.3.2004
19	West Bengal	Rules notified in 2003
20	Andaman & Nicobar Islands	Rules notified on 7.10.2002
21	Chandigarh	Rules notified on 15.3.2002
22	Daman & Diu	Model Rules have been adopted
23	NCT of Delhi	Rules notified on 19.8.2002
24	Dadra & Nagar Haveli	Rules notified on 5.4.2002
25	Orissa	Rules notified

THE STATES/UTs WHERE RULES ARE UNDER PROCESS FOR NOTIFICATION

Sl. No	Name of the States/UTs	Present status
1	Goa	Rules under process for notification
2	Punjab	Rules under process for notification
3	Jharkhand	Rules under process for notification
4	Lakshadweep	There is no problem relating to juveniles in the territory. However, they have earmarked a room in Working Women's hostel at Kavaratti to accommodate such cases if required.

THE STATES/UTs FROM WHERE NO INFORMATION HAS BEEN RECEIVED REGARDING NOTIFICATION OF THE RULES

Sl. No.	Name of the States/UTs	Present status
1	Kerala	No information
2	Arunachal Pradesh	No information
3	Uttaranchal	No information
4	Jammu & Kashmir	No information
5	Nagaland	No information
6	Assam	No information

ANNEXURE II

State-wise details of setting up of Juvenile Justice Boards and Child Welfare Committees

Sl. No.	Name of the State/UTs	No. of the JJ Board with name of District	No. of CWC with name of Districts
1	Andhra Pradesh	JJBs constituted for all Homes	CWCs constituted for all Homes
2	Bihar	Proposal for constitution of 9 JJBs – one in each Divisional Hqrs. Is under process	Constitution of a CWC at Patna is under process
3.	Chattishgarh	9 JJB have been constituted in r/o of all 16 districts of the state	7 CWCs have been constituted in r/o of all 16 districts
4	Goa	JJB constituted for entire state	CWC constituted for entire state
5	Gujarat	JJBs constituted in each district	CWCs constituted in each district
6	Haryana	4 JJBs constituted at Ambala, Sonipat, Gurgaon and Hissar	19 CWCs constituted in each district under the Chairmanship of Dy. Commissioner
7	Himachal Pradesh	2JJBs constituted at Shimla and Una	Proposal is under consideration
8	Karnataka	5 JJBs constituted at Bangalore, Mysore, Shimoga, Dharwad and Gulbarg covering all 27 districts of the state	27 CWCs constituted in each district
9	Kerala	14 Juvenile Courts set up in the state	14 CWCs set up in the state
10	Madhya Pradesh	Under processing	Under processing
11	Maharastra	30 JJBs constituted	37 CWCs constituted
12	Manipur	1 JJB constituted	1 CWC constituted
13	Mizoram	JJB constituted	5 CWCs at Aizawl, Champhai, Kolasib, Serchhip and Mamit
14	Meghalaya	7 JJBs constituted	7 CWC constituted
15	Pondicherry	JJB constituted	CWC constituted
16	Punjab	Under consideration of High Court of Punjab and Haryana	CWCs at Gurdaspur, Patiala, Ropar, Jalandhar and Bhatinda
17	Rajasthan	JJBs constituted in 9 districts and remaining districts have been attached to these Boards.	CWCs constituted in 9 districts and remaining districts have been attached to these Boards
18	Sikkim	1 JJB constituted	1 CWC constituted
19	Tamil Nadu	8 JJBs constituted	18 CWC constituted
20	Tripura	JJB constituted	Proposal is under processing
21	Uttar Pradesh	JJBs constituted in 25 districts and action underway for constitution of CWC in remaining districts	CWCs constituted in 12 districts and action underway for constitution of CWC in remaining districts
22	West Bengal	2 JJBs constituted for all the districts in the State	5 CWCs constituted for all the districts in the State
23	Andaman & Nicobar Islands	1 JJB constituted both Andaman and Nicobar	1 CWC constituted both Andaman and Nicobar

24	Chandigarh	JJB constituted	CWC constituted
25	Daman & Diu	Action initiated for constitution of JJB	CWC will be formulated soon
26	Delhi	1 JJB constituted and proposal for constitution of 1 more Board is under consideration	3 CWCs constituted and proposal for constitution of 2 more committee is under consideration
27	Lakshadweep	There is no problem relating to juveniles in the territory. However, they have earmarked a room in Working Women's Hostel at Kavarati to accommodate such cases, if required	-
28	Dadra & Nagar Haveli	1 JJB constituted	1 CWC constituted
29	Orissa	28 JJB constituted and 2 JJBs are under construction	30 CWC constituted

ANNEXURE III

Introduced in Lok Sabha on 29.8.2005

Bill No. 124 of 2005.

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT) BILL, 2005.

**A
BILL**

to amend the Juvenile Justice (Care and Protection of Children) Act, 2000.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Amendment Act, 2005. Short title.
- 56 of 2000. 2. In the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the principal Act), in the long Title, for the words “through various institutions established under this enactment”, the words “and for matters connected therewith or incidental thereto” shall be substituted. Amendment of long title.
3. In section 1 of the principal Act,- Amendment of section 1
 - (i) in the marginal heading, for the words “and commencement”, the words “commencement and application” shall be substituted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:-

“(4) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all cases involving detention, prosecution or sentence of imprisonment of juveniles under any such law.”

Amendment of section 2.

4. In section 2 of the principal Act,-

(i) for clause (I), the following clause shall be substituted, namely:-

‘(I) “juvenile in conflict with law” means a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence;’,

5

(ii) clause (m) shall be omitted.

Omission of Certain

5. Throughout the principal Act, the words “local authority”, “or local authority” and “or the local authority”, wherever they occur, shall be omitted.

Expressions.

Insertion of new section 7A.

6. After section 7 of the principal Act, the following section shall be inserted, namely:-

10

Procedure to be followed when claim of juvenile is raised before any court.

“7A (I) Whenever a claim of juvenility is raised before any court or a court is of the opinion that an accused person produced before it was a juvenile on the date of commission of the offence, the court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) so as to determine the age of such person, and shall record a finding whether the person is a juvenile or a child or not, stating his age as nearly as may be:

15

Provided that a claim of juvenility may be raised before any court and it shall be recognized at any stage even after disposal of the case in terms of the provisions contained in this Act and the rules made thereunder.

(2) If the court finds a person to be a juvenile on the date of commission of the offence, it shall forward the juvenile to the Board.”

20

Amendment of 7.

In section 10 of the principal Act, for sub-section (1), the

Section 10. following sub-section shall be substituted, namely:-

“(1) As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty-four hours of his apprehension excluding the time necessary for the journey, from the place where the juvenile was apprehended, to the Board.”

Amendment of
Section 12

8. In section 12 of the principal Act, in sub-section (1), after the words, “with or without surety”, the words “or placed under the care of any fit institution” shall be inserted.

Amendment
Of section 15

9. In section 15 of the principal Act, in sub-section (I), for clause (g), the following clause shall be substituted, namely:-

“(g) make an order directing the juvenile to be sent to a special home for a period of three years or until he ceases to be a juvenile, whichever is later:

Provided that the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.”

Amendment
Of section 16

10. In section 16 of the principal Act, in sub-section (2), for the proviso, the following proviso shall be Substituted, namely:-

“Provided that the period of detention so ordered shall not exceed in any case the maximum period provided under section 15.”

Amendment
Of section 20

11. In section 20 of the principal Act, the following shall be inserted, namely:-

“Provided that the Board may, for any adequate and special reason to be mentioned in the order, review the case and pass appropriate order in the interest of such juvenile.

Explanation.- In all pending cases in respect of a juvenile in conflict with law, in any court, the determination of juvenility of such a juvenile shall be in terms of clause (1) of section 2, even if the juvenile ceases to be so on or before the date of commencement of this Act and the provisions of this Act shall apply as if the said provisions had been in force, for all purposes and at all material times when the alleged offence was committed.”

12. For section 21 of the principal Act, the following section shall be substituted, namely:-

“21. (1) No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law or a child in need of care and protection under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile or child nor shall any picture of any such juvenile or child be published:

Provided that for reasons to be recorded in writing, the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile or the child.

(2) Any person who contravenes the provisions of sub-section (1), shall be liable to a penalty which may extend to one thousand rupees.”

13. In section 32 of the principal Act,-

(a) in sub-section(I), the following proviso shall be inserted at the end, namely:-

“Provided that the child shall be produced before the Committee without any loss of time but within a period of twenty-four hours excluding the time necessary for the journey.”

(b) in sub-section(2), the words “to the police and” shall be omitted.

14. In section 33 of the principal Act,-

Substitution of new section for section 21.

Prohibition of publication of name, etc., of juvenile or child in need of care and protection involved any proceeding under the Act.

amendment of section 32.

Amendment

of section 33.

(a) in sub-section(1), the words, “or any police officer or special juvenile police unit or the designated police officer” shall be omitted;

(b) for sub-section(3), the following sub-section shall be substituted, namely:-

“(3) After the completion of the inquiry, if, the Committee is of the opinion that the said child has no family or ostensible support or is in continued need of care and protection, it may allow the child to remain in the children’s home or shelter home till suitable rehabilitation is found for him or till he attains the age of eighteen years.”

15. In section 39 of the principal Act, for the *Explanation*, the following

Explanation shall be substituted, namely:-

Amendment
of section 39.

Explanation.- For the purposes of this section “restoration of and protection of a child” means restoration to-

- (a) parents;
- (b) adopted parents;
- (c) foster parents;
- (d) guardian;
- (e) fit person; or
- (f) fit institution.’

16. In section 41 of the principal Act,-

Amendment
of section 41.

(i) for sub-section(2), the following sub-section shall be substituted,
namely:-

“(2) Adoption shall be resorted to through such mechanism as may be prescribed for the rehabilitation of the children who are orphaned, abandoned, neglected and abused.”

(ii) for sub-section(6), the following sub-section shall be substituted, namely:-

“(6) The Board may allow a child to be given in adoption-

- (a) to a single parent;
- (b) to parents to adopt a child of same sex irrespective of the number of living biological sons or daughters; or
- (c) to childless parents.”,

(iii) after sub-section (6), the following sub-section shall be inserted, namely-

“(7) No adoption under this section shall be allowed unless the child and the parents are the citizens of India.”

Substitution of
new section for
section 57.

17. For section 57 of the principal Act, the following section shall be substituted, namely:-

Transfer
between children’s
homes, under the
Act, and juvenile
Homes of like nature
within the State.

“57. The State Government may direct any child or the juvenile to be transferred from any children’s home or special home within the State to any other children’s home, special home or institution of like nature with the prior intimation to the Committee or the Board, as the case may be, and such order shall be deemed to be operative for the competent authority of the area to which the child or the juvenile is sent.”

Amendment of
Section 59.

18. In section 59 of the principal Act, in sub-section(2), for the words “for maximum seven days”, the words “for a period generally not exceeding seven days” shall be substituted.

Amendment of
Section 64.

19. In section 64 of the principal Act, the following shall be inserted, namely:-

“provided that the State Government or as the case may be, the Board may, for any adequate and special reason to be recorded in writing, review the case of a juvenile undergoing such sentence, who has ceased to be so on or before the commencement of this Act, and pass appropriate order in the interest of such juvenile.

Explanation- In all cases where a juvenile in conflict with law is undergoing a sentence of imprisonment at any stage on the date of commencement of this Act, his case including the issue of juvenility, shall be deemed to be decided in terms of the provisions contained in this Act and the rules made thereunder, irrespective of the fact that he ceases to be juvenile on or before such date and accordingly he shall be sent to the special home or a fit institution, as the case may be, for the remainder of the period of the sentence.”

Amendment of
Section 68.

20. In section 68 of the principal Act,-

(a) in sub-section(1), the following proviso shall be inserted, namely:-

“Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the State Government may make rules under this section, and where any such model rules have been framed in respect of any such matter, they shall apply to the State until the rules in respect of that matter is made by the State Government and while making any such rules, so far as is practicable, they conform to such model rules.”

(b) in sub-section(2), after clause (xii), the following clause shall be inserted, namely:-

“(xiii) rehabilitation mechanism to be resorted to in adoption under sub-section (2) of section 41;”

(c) sub-section (3) shall be renumbered as sub-section (4) thereof, as before sub-section (4) as so re-numbered, the following sub-section shall be inserted namely:-

“(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.”

STATEMENT OF OBJECTS AND REASONS

The Juvenile Justice (Care and Protection of Children) Act, 2000 (the Juvenile Justice Act) was brought into force on 1st April, 2001. The

Juvenile Justice Act was aimed at providing a juvenile justice system for juveniles in conflict with law and children in need of care and protection by adopting a child friendly approach in the adjudication and disposition of matters in the best interests of children and for their rehabilitation keeping in view the developmental needs of the children.

2. In a public interest litigation (Civil Writ Petition No. 3447 of 2001) certain provisions of the Juvenile Justice Act were challenged before the High Court of Delhi. During the course of hearings, the High Court observed that some of the provisions of the Juvenile Justice Act merited re-consideration. Keeping in view these observations, it was proposed to carry out amendments in sections 32, 33, 56, 57 and 59 of the Juvenile Justice Act. Accordingly, an amendment Bill was introduced in the Lok Sabha on 24.7.2003. Meanwhile, taking cognizance of the said Bill, the High Court of Delhi disposed of the above said Civil Writ Petition on 28.7.2003. The Lok Sabha referred the said Bill to the Parliamentary Standing Committee on Labour and Welfare for examination and report. Before the Standing Committee submitted its report to the Lok Sabha, the Lok Sabha was dissolved and the said Bill lapsed.

3. Thereafter, before re-introducing a fresh amendment Bill the Government considered it necessary to revisit the amendment proposals again along with other suggestions received by the Standing Committee from various experts. In the process, further consultations were held and suggestions/views of all concerned were obtained. Based upon these consultations, it is proposed to make amendments in other provisions of the Juvenile Justice Act in addition to those contained in the earlier Bill. Modifications proposed in the Bill, inter alia, intend-

- (i) to modify the long title of the Juvenile Justice Act so as to convey a wider scope of rehabilitation of child in need of care and protection or a juvenile in conflict with law under the Act through not only institutional but also non-institutional approach;
- (ii) to clarify that the Juvenile Justice Act shall apply to all cases involving detention or criminal prosecution of juveniles under any other law;
- (iii) to remove doubts regarding the relevant date in determining the juvenility of a person and applicability of the Juvenile Justice Act;
- (iv) exclusion of the local authority from the provisions authorizing them to discharge or transfer a child in need of care and protection or a juvenile from the children's home or special home or for sending a juvenile in conflict with law

- undergoing imprisonment, to a special home or a fit institution;
- (v) to have a procedure laid down where claim of juvenility is raised before any court;
 - (vi) to have a minimum period of twenty-four hours, excluding the time necessary for the journey from the place where the juvenile in conflict with law was apprehended, within which he should be produced before the Board and a similar provision with regard to production of a child before the Child Welfare Committee;
 - (vii) to provide for alternatives to detention in the observation home to achieve the intention of the Juvenile Justice Act;
 - (viii) to do away with the association of any police officer from the inquiry process, for the child in need of care and protection as the work is assigned to the Child Welfare Committee and to cover other cases where the child can remain in children/shelter home after completion of enquiry;
 - (ix) to extend the scope of adoption of a child to childless parents and to limit the same under the Juvenile Justice Act to citizens of India only;
 - (x) to provide for a flexible period of leave that may be given to child on special occasions like examination, marriage of relatives, death of kith and kin or accident or serious illness of parent or any emergency of the like nature;
 - (xi) to ensure the applicability of model rules framed by the Central Government in the States/Union territories who have not made their own rules, till the rules are framed in this regard by the respective States/Union territories.

4. This Bill seeks to achieve the above objectives.

MEIRA KUMAR.

NEW DELHI;
The 23rd August, 2005.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Under clause 20 of the Bill the Central Government may frame model rules in respect of all or any of the matters with respect to which the State Government may make rules under the provision of section 68 of the Juvenile Justice (Care and Protection of Children) Act, 2000. The model rules framed by the Central Government shall apply to the States until the rules in this regard are made by them and while making such rules, so far as is practicable, they will conform to such model rules. The made rules shall be required to be laid before each House of Parliament.

Clause 16 (i) authorizes the State Government to frame rules to provide for rehabilitation mechanism to be resorted to in adoption under sub-section (2) of section 41 of the said Act.

The matters with respect to which the said rules may be made are matters of procedure or administrative detail and it may not be possible to provide for them in the amendment Bill itself.

In context of the circumstances as explained above, the delegation of legislative power is of a normal character.

ANNEXURE

EXTRACTS FROM THE JUVENILE JUSTICE (CARE
AND PROTECTION OF CHILDREN) ACT, 2000
(56 OF 2000)

* * *

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 through various institutions established under this enactment.

* * *

CHAPTER I

1. (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Act, 2000.

short title, extent
and
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,-

Definitions.

* * *

(l) “juvenile in conflict with law” means a juvenile who is alleged to have committed an offence;

(m) “local authority” means Panchayats at the village and Zila Parishad at the district level and shall also include a Municipal Committee or Corporation or a Cantonment Board or such other body legally entitle to function as local authority by the Government;

* * *

10. (1) As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer who shall immediately report the matter to a member of the Board.

Apprehension
of juvenile in
conflict with law.

* * * *

12. (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

Bail of Juvenile

* * *

15. (1) Where a Board is satisfied on inquiry that a juvenile has committed an offence, then, notwithstanding anything to the contrary contained in any other law for the time being in force, the Board may, if it thinks so fit,-

Order that may
be passed
regarding
juvenile.

- (a) allow the juvenile to go home after advice or admonition following appropriate inquiry against and counselling to the parent or the guardian and the juvenile;
- (b) direct the juvenile to participate in group counseling and similar activities;
- (c) order the juvenile to perform community service;
- (d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money;
- (e) direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years;

- (f) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years;
- (g) make an order directing the juvenile to be sent to a special home,-
- (i) in the case of juvenile, over seventeen years but less than eighteen years of age for a period of not less than two years;
- (ii) in case of any other juvenile for the period until he ceases to be a juvenile:

Provided that the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.

* * *

(2) On receipt of a report from a Board under sub-section (1), the State Government may make such arrangement in respect of the juvenile as it deems proper and may order such juvenile to be kept under protective custody at such place and on such conditions as it thinks fit:

Provided that the period of detention so ordered shall not exceed the maximum period of imprisonment to which the juvenile could have been sentenced for the offence committed.

* * *

Special provision in respect of pending cases. 20. Notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act comes into force in that area, shall be continued in that court as if this Act had not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile, forward the juvenile to the Board which shall pass orders in respect of that juvenile in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that a juvenile has committed the offence.

Prohibition of publication of name, etc., of juvenile involved in any proceeding under the Act.

21. (1) No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile nor shall any picture of any such juvenile be published:

Provided that for reasons to be recorded in writing the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile.

(2) Any person contravening the provisions of sub-section (1) shall be punishable with fine, which may extend one thousand rupees.

* * *

32. (1) Any child in need of care and protection may be produced before the Committee by one of the following persons-

- (i) any police officer or special juvenile police unit or a designated police officer;
- (ii) any public servant;
- (iii) childline, a registered voluntary organization or by such other voluntary organization or an agency as may be recognized by the State Government;
- (iv) any social worker or a public spirited citizen authorized by the State Government; or
- (v) by the child himself.

(2) The State Government may make rules consistent with this Act to provide for the manner of making the report to the police and to the Committee and the manner of sending and entrusting the child to children's home pending the inquiry.

33. (1) On receipt of a report under section 32, the Committee or any police officer or special juvenile police unit or the designated police officer shall hold an inquiry in the prescribed manner and the Committee, on its own or on the report from any person or agency as mentioned in sub-section (1) of section 32, may pass an order to send the

Production before Committee.

Inquiry

child to the children's home for speedy inquiry by a social worker or child welfare officer.

* * * * *
(3) After the completion of the inquiry if the Committee is of the opinion that the said child has no family or ostensible support, it may allow the child to remain in the children's home or shelter home till suitable rehabilitation is found for him or till he attains the age of eighteen years.

(39) (1) Restoration of and protection to a child shall be the prime objective of any children's home or the shelter home.

Restoration.

(2) The children's home or a shelter home, as the case may be, shall take such steps as are considered necessary for the restoration of and protection to a child deprived of his family environment temporarily or permanently where such child is under the care and protection of a children's home or a shelter home, as the case may be.

(3) The Committee shall have the powers to restore any child in need of care and protection to his parent, guardian, fit person or fit institution, as the case may be, and give them suitable directions.

Explanation.-For the purposes of this section "restoration of child" means restoration to-

- (a) parents;
- (b) adopted parents;
- (c) foster parents.

Adoption

* * * * *

41. (1)*

(2) Adoption shall be resorted to for the rehabilitation of such children as are orphaned, abandoned, neglected and abused through institutional and non-institutional methods.

* * * * *

(6) The Board may allow a child to be given in adoption-

- (a) to a single parent, and
- (b) to parents to adopt a child of same sex irrespective of the number of living biological sons or daughters.

* * *

*
 Power of competent authority to discharge and transfer juvenile or child. 56. The Competent authority or the local authority may, notwithstanding anything contained in this Act, at any time, order a child in need of care and protection or a juvenile in conflict with law to be discharged or transferred from one children's home or special home to another, as the case may be keeping in view the best interest of the child or the juvenile, and his natural place of stay, either absolutely or on such conditions as it may think fit to impose:

Provided that the total period of stay of the juvenile or the child in a children's home or a special home or a fit institution or under a fit person shall not be increased by such transfer.

Transfer between children's homes' under that Act, and juvenile homes, of like nature in different parts of India. 57. The State Government or the local authority may direct any child or the juvenile to be transferred from any children's home or special home outside the State to any other children's home, special home or institution of a like nature with the prior intimation to the local Committee or the Board, as the case may be, and such order shall be deemed to be operative for the competent authority of the area to which the child or the juvenile is sent.

* * * *

Release and absence of juvenile or child on placement. 59. (1) (2) The competent authority may also permit leave of absence to any juvenile or the child, to allow him, on special occasions like examination, marriage of relatives, death of kith and kin or the accident or serious illness of parent or any emergency of like nature, to go on leave under supervision, for maximum seven days, excluding the time taken in journey.

* * *

* *

Juvenile in conflict with law undergoing sentence at commencement of this Act. 64. In any area which this Act is brought into force, the State Government or the local authority may direct that a juvenile in conflict with law who is undergoing any sentence of imprisonment at the commencement of this Act, shall, in lieu of undergoing such sentence, be sent to a special home or be kept in fit institution in such manner as the State Government or the local authority thinks fit for the remainder of the period of the sentence; and the provisions of this Act shall apply to the juvenile as if he had been ordered by the Board to be sent to such special home or institution or, as the case may be, ordered to be kept under protective care under sub-section (2) of section 16 of this Act.

* * * *

Power to make rules. 68.(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

* * * *

ANNEXURE IV

MINUTES OF THE SIXTH SITTING OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON 27TH OCTOBER, 2005

The Committee met from 11.00 hrs. to 12.30 hrs in Committee Room 'B' Parliament House Annexe, New Delhi.

PRESENT

1. Smt. Sumitra Mahajan - Chairperson

MEMBERS

LOK SABHA

2. Shri Ashok Argal
3. Shri Mahaveer Bhagora
4. Shri Eknath M. Gaikwad
5. Shri Kailash Meghwal
6. Shri Rupchand Murmu
7. Shri Rameshwar Oraon
8. Shri Daroga Prasad Saroj
9. Dr. R. Senthil
10. Smt. Usha Verma
11. Shri K. Yerrannaidu

RAJYA SABHA

12. Smt Jamana Devi Barupal
13. Shri. Silvius Condpan
14. Shri. R.S. Gavai
15. Shri. Abdul Wahab Peevee
16. Shri. Dharam Pal Sabharwal
17. Shri. Ram Narayan Sahu
18. Shri. Tarlochan Singh

SECRETARIAT

- | | | |
|----|--------------------|------------------|
| 1. | Shri A.K. Singh | Joint Secretary |
| 2. | Shri R.K. Saxena | Deputy Secretary |
| 3. | Shri Bhupesh Kumar | Under Secretary |

WITNESSES

- | | | |
|----|--------------------|---|
| 1. | Smt. Sarita Prasad | Secretary, M/o SJE |
| 2. | Dr. Sundeep Khanna | Additional Secretary, M/o SJE |
| 3. | Shri. P.N. Murthy | Joint Secretary, M/o SJE |
| 4. | Shri. J.S. Kochar | Director, M/o SJE |
| 5. | Dr. Sanjay Singh | Joint Secretary and L.C., M/o Law & Justice |

At the outset, Hon'ble Chairperson welcomed the Members and witnesses to the sitting of the Committee convened to have briefing by the representatives of the Ministry of Social Justice and Empowerment on "The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005."

2. Thereafter she apprised the Members that a Bill to amend the Juvenile Justice (Care and Protection of Children) Act, 2000 was introduced earlier in Lok Sabha on 24th July, 2003 and had been referred to the erstwhile Standing Committee on Labour and Welfare for examination and report. The Committee had then invited suggestions from interested groups/individuals concerned with the welfare of Juveniles. The suggestions received were sent to Ministry of Social Justice and Empowerment for comments. The Chairperson then asked whether those suggestions have been incorporated in the Bill or not.

3. Hon'ble Chairperson also enquired from the Secretary the steps being taken by them to define 'Children in need of care and protection' in a precise manner and also whether the begging children who are in need of care too, may be brought under the purview of the JJ Act.

4. She expressed concern over the delay in constitution of Juvenile Justice Boards by all the States and desired that the Boards should be constituted in all the States expeditiously. She further enquired as to why other licensed and recognized adoption agencies have not been brought under the purview of the JJ Act keeping in view the fact that they account for large number of adoptions in the country.
5. The Secretary then responded to the queries put forward by the Hon'ble Chairperson and other members of the Committee.
6. Hon'ble Chairperson then thanked the officials of the Ministry of Social Justice and Empowerment and the Ministry of Law and Justice for giving valuable information to the Committee and expressing their views in a candid manner.
7. A Verbatim record of the proceeding has been kept.

The Committee then adjourned.

ANNEXURE V

MINUTES OF THE SEVENTH SITTING OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON 16TH NOVEMBER, 2005.

The Committee met from 11.00 hrs. to 12.10 hrs in Committee Room No. '139' Parliament House Annexe, New Delhi.

PRESENT

1. Smt. Sumitra Mahajan - Chairperson

MEMBERS

LOK SABHA

2. Shri. M. Appadurai
3. Shri. Ashok Argal
4. Shri. Eknath M. Gakiwad
5. Shri. Sanat Kumar Mandal
6. Shri. Rupchand Murmu
7. Shri. Rameshwar Oraon
8. Shri. Asaduddin Owaisi
9. Shri. Daroga Prasad Saroj
10. Smt. Pratibha Singh
11. Shri. Lalit Mohan Suklabaidya

RAJYA SABHA

12. Smt. Jamana Devi Barupal
13. Shri. Silvius Condpan
14. Shri. Dharam Pal Sabharwal
15. Shri. Tarlochan Singh

SECRETARIAT

1. Shri. A.K. Singh Joint Secretary
2. Shri. R.K. Saxena Deputy Secretary
3. Shri. Bhupesh Kumar Under Secretary

WITNESSES

1. Smt. Sarita Prasad Secretary, M/o SJE
2. Dr. Sundeep Khanna Additional Secretary, M/o SJE
3. Shri. P.N. Murthy Joint Secretary, M/o SJE
4. Shri. J.S. Kochar Director, M/o SJE
5. Dr. Sanjay Singh Joint Secretary and L.C., M/o Law & Justice

At the outset, Hon'ble Chairperson welcomed the Members and witnesses to the sitting of the Committee convened to have oral evidence of the representatives of the Ministry of Social Justice and Empowerment on "The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005."

2. Hon'ble Chairperson asked the Secretary to clarify 'institutional' and 'non-institutional' approach for the rehabilitation of the orphaned, abandoned, neglected and abused children. She also enquired about the number of States / Districts which have so far constituted Juvenile Justice Boards / Child Welfare Committees as well as the number of States / Districts where the same were not functioning and also whether all the States have framed rules under JJ Act.

3. She also sought clarification on the reply of the Ministry that incorporation of the term "in conflict with law," after 'juvenile' in clauses 3, 6 and 19 of the Bill would make the sentence awkward.

4. The Secretary then responded to the queries put forward by the Hon'ble Chairperson and other Members of the Committee.

5. Hon'ble Chairperson then thanked the officials of the Ministry of Social Justice and Empowerment and the Ministry of Law and Justice for giving valuable information to the Committee and expressing their views in a candid manner.

6. A verbatim record of the proceeding has been kept.

The Committee then adjourned.

ANNEXURE VI

MINUTES OF THE EIGHTH SITTING ON THE STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON 8th DECEMBER, 2005.

The Committee met from 1500 hrs. to 1630 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Smt. Sumitra Mahajan - Chairperson

MEMBERS

LOK SABHA

2. Shri Mahaveer Bhagora
3. Shri Eknath M. Gaikwad
4. Shri Sanat Kumar Mandal
5. Dr. R. Senthil
6. Smt. Pratibha Singh
7. Shri Lalit Mohan Suklabaidya
8. Smt. Usha Verma

RAJYA SABHA

9. Smt. Jamana Devi Barupal
10. Dr. Narayan Singh Manaklao
11. Shri Dharam Pal Sabharwal
12. Shri Tarlochan Singh

SECRETARIAT

1. Shri R.K. Saxena - Deputy Secretary
2. Bhupesh Kumar - Under Secretary

2. At the outset, Hon'ble Chairperson apprised the Committee that they are meeting to consider and adopt two Draft Reports of the Committee namely, Tenth Report on the subject "Grants-in-aid to State Tribal Development Cooperative Corporations (STDCCs) for Minor Forest Produce Operations" and Eleventh Report on "The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005."

3.XXX

XXX

XXX

XXX

XXX

4. The Committee then took up the draft Eleventh Report on 'The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005' and adopted the same without any amendment.

5. The Committee authorized the Chairperson to finalize and present the reports on their behalf to the Parliament.

The Committee then adjourned.

APPENDIX

STATEMENT OF RECOMMENDATIONS/OBSERVATIONS CONTAINED IN THE REPORT

Sl.No.	Para No.	Recommendations/Observations
1.	1.10	<p>The Committee note that 'The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2005' seeks to amend, among other things, the Long Title of the principal Act to create scope for a non-institutional approach for rehabilitation, which has not been provided for in the Act. The Ministry have informed that non-institutional approach would include foster care, adoptions, sponsorships etc. The Committee express apprehension that in case some unscrupulous or undesirable person happen to take custody of a child in need of care and protection and keep him in his foster care, he may abuse the child physically and emotionally for his unlawful gains. The Committee, therefore, desire that adequate provisions should be made in the Act to safeguard and protect the interests of children kept under foster homes from being exploited and abused. The Ministry may evolve guidelines for placing a child under foster home so that extreme care is taken in the selection of families and also for keeping a check by verifying from time to time, the welfare of the child kept under foster care. The Committee also urge the Ministry to undertake awareness generation programmes to encourage sponsoring children for adoption under various schemes in private sector.</p>
2	1.14	<p>The Committee observe that clause 5 of the Bill seeks to omit the words 'local authority', 'or local authority' and 'or the local authority' throughout the principal Act. The rationale put forth by the Ministry is that members of the local authority may not necessarily be conversant with child psychology and welfare. The Committee do not fully endorse the Ministry's views that knowledge of a child's background by members of the local authority may be a generalized one with no particular knowledge about the circumstances of the case which the JJB members may be possessing on the basis of their enquiry and also there is no need for the local authority when an institution of probation officer is provided under the Act for finding out the antecedents of the juvenile or the child. The Committee are of the opinion that the local authority can also provide valuable suggestions and make better coordination towards the welfare of the juvenile due to their vast experience, knowledge of child's background, family conditions and local cultural values. Thus, there is scope for the local authority to play an important role in exercising the powers and discharging the duties</p>

		<p>conferred under the Act in relation to a juvenile in conflict with law and a juvenile in need of care and protection particularly in States/Districts where no JJBs/CWCs have been set up so far. The Committee, therefore, recommend that the words 'local authority' may be retained in the Act so that the services, experience and wisdom of the members of local authorities could be utilized for the betterment and welfare of juveniles in conflict with law and children in need of care and protection.</p>
3	1.21	<p>The Committee find that the term 'juvenile' has been used by the Ministry to denote both a juvenile 'in conflict with law' and 'in need of care and protection' throughout the principal Act. The Committee feel that there is a need to be more explicit in the use of the term 'juvenile' in Clauses 3, 6 and 19 of the Bill corresponding to Section 1(4), Section 7A and Section 64 respectively as those Sections specifically pertain to a juvenile in conflict with law and not a juvenile who is in need of care and protection. The Committee are not convinced with the reply of the Ministry that incorporation of the term 'in conflict with law' after 'juvenile' in Sections 1(4), 7A and 64 would make the sentence unwieldy and awkward. In their opinion, the terms and expressions used in the Act should be precise and clear cut with no ambiguity. The Committee, therefore, desire that the Ministry should incorporate the term 'in conflict with law' after 'juvenile' in Clauses 3, 6, and 19 of the Bill seeking to amend Sections 1, 7 and 64 of the principal Act respectively.</p>
4	1.23	<p>The Committee observe that Clause 7 of the Bill seeks to substitute sub-section (1) of section 10 of the principal Act stating that 'as soon as a juvenile in conflict with law is apprehended by the police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board within twenty-four hours of his apprehension excluding the time necessary for the journey'. The Committee view that a juvenile who is apprehended by the police is likely to be put in a police lock-up or Jail along with other adults before being produced to the Juvenile Justice Board. The Committee desire that adequate safeguards may be provided to prevent such incidents from happening and urge the Ministry should insert a proviso after sub-section(1) of section 10 of the Amendment Bill stating that "At no point of time will a juvenile in conflict with law be placed in a lock-up or Jail with adult(s)".</p>
5	1.25	<p>The Committee note that section 21 of the principal Act has been proposed to be substituted with a new section to cover, in addition to juveniles in conflict with law, those juveniles in need of care and protection involved in any proceeding under the Act for prohibition of publication of their names, addresses or schools or any</p>

		<p>other particulars etc. The Committee, however, find that the penalty of one thousand rupees imposed under the Act for contravening the above provision is woefully inadequate to deter a person from committing such an act. The Committee, therefore, recommend that the penalty may be raised to twenty-five thousand rupees. The money so recovered may be utilized for the welfare of the juvenile or the child under the supervision of the concerned Competent Authority.</p>
6	1.31	<p>The Committee note that the Ministry have sought to insert a proviso after sub-section(1) of Section 68 of the principal Act to give statutory status and ensure applicability of Model Rules framed by the Central Government to States/UTs who have not made their own rules till the rules are framed by the respective States/UTs. The Ministry have also informed that no information has been received from the States of Kerala, Arunachal Pradesh, Uttaranchal, Jammu & Kashmir, Nagaland and Assam regarding notification of the rules while in Goa, Punjab, Jharkhand and Lakshadweep, it is under process. The Committee are, therefore, of the firm view that the thrust should be on framing of rules by States/UTs under the Act at the earliest i.e. at least within six months to one year from the date when the Act came into force for effective implementation of the Act and ensuring that speedy justice is rendered to the juvenile. The Committee, therefore, urge the Ministry to prescribe definite time-frame for States/UTs to frame rules under the Act and make all out efforts to persuade the States/UTs to frame rules and notify the same within the prescribed time-frame.</p>
7	1.34	<p>The Committee note the reply of the Ministry that child beggars are already covered under Section 2(d)(i) and (viii) of the JJ Act, 2000 where a child in need of care and protection has been defined. The Committee also note that although a child who is found without any home or settled place or abode and without any ostensible means of subsistence and who is being or is likely to be abused for unconscionable gains are included under Section 2(d)(i) and (viii), yet child beggars have not been specifically mentioned. Keeping in view the fact that child beggars constitute the largest segment of neglected children in the country, the Committee desire that they should be specifically mentioned under the definition of 'children in need of care and protection' in the Act. Steps may, therefore, be taken to insert the words 'child beggars' in Section 2(d)(i) or (viii) or a new proviso may be inserted in Section 2(d) of the Act.</p>
8	1.38	<p>The Committee feel that the number of JJBs/CWCs constituted so far i.e., 203 JJBs and 239 CWCs are inadequate to cater to those juveniles in conflict with law and in need of care and protection. The Committee also</p>

		<p>express concern over the undue delay in constitution of JJBs/CWCs as States/UT like Bihar, Madhya Pradesh, Daman & Diu, Uttar Pradesh, Orissa, Punjab and Delhi are still in the process of constituting the JJBs/CWCs in all or in some districts, even after five years since the Act came into force. The Committee, therefore, feel that there is an urgent need to make it mandatory for the States to constitute these Boards/Committees expeditiously and urge the Ministry to prescribe a definite time-frame in the Act for the same.</p>
9	1.46	<p>The Committee note with concern that complete information is not available with the Ministry regarding the number of observation homes/special homes for juveniles in conflict with law and children's homes/shelter homes for juveniles in need of care and protection, set up by the States/UTs across the country. Only five States viz, Karnataka, Himachal Pradesh, Haryana, Mizoram and Delhi have constituted Inspection Committees for inspecting the Children's homes. The Committee further note that though the Act provides for facilities and various types of services in the special homes/shelter homes, many of these homes are lacking in basic facilities like sanitation and recreation facilities. The Ministry have laid the onus for setting up and managing the homes on the State Governments. The Committee are, however, of the view that monitoring of the implementation of the Act is the responsibility of the Central Government and hence, the Ministry should ensure that the provisions of the Act are implemented effectively. The Committee, therefore, urge the Ministry to identify the States/UTs/Districts where observation homes/special homes and children's homes/shelter homes have not yet been established and make all out efforts to persuade those States/UTs to set up such homes with proper facilities at the earliest. The Ministry may also pursue all the States/UTs to constitute Inspection Committees for the Children's homes and ensure that inspection of the homes are carried out periodically.</p>
10	1.47	<p>The Committee further note that the Ministry is implementing the scheme of 'A programme for Juvenile Justice' for upgradation of facilities provided in observation homes/special homes with 50% central assistance to the States. The Committee, therefore, desire that the Ministry should create awareness and generate wide publicity about the scheme so that States/UTs may come forward with adequate proposals and the observation homes/special homes are equipped with proper facilities to render services to a juvenile in conflict with law.</p>
11	1.52	<p>The Committee express their apprehension that NGOs, who are actively involved in managing the shelter homes may engage in unscrupulous activities for unlawful gain like buying and selling young children for adoption.</p>

		<p>The Committee, therefore, desire that adequate safeguards should be incorporated in the Act or in the Model Rules framed thereunder to prevent the NGOs from indulging in such activities. The Committee also urge the Ministry to persuade the States/UTs to maintain strict vigil over the activities of the NGOs; ensure that the homes are run properly and impose penalty on the NGOs if a child lodged under their care is not produced before the Child Welfare Committee within the stipulated time.</p>
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